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U.S.--FEDERAL COMMUNI-
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PROPOSED FINDINGS OF
FACT AND CONCLUSIONS
OF LAW OF THE GENERAL
COUNSEL OF THE FEDERAL
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington 25, D. C.

In re Applications of

KMPC, THE STATION OF THE STARS, INC.,
(RADIO STATION KMPC)
Los Angeles, California

DOCKET NO. 9468
FILE NO. BR-18

WJR, THE GOODWILL STATION, INC.,
(RADIO STATION WJR)
Detroit, Michigan

DOCKET NO. 9469
FILE NO. BR-331

WGAR BROADCASTING COMPANY,
(RADIO STATION WGAR)
Cleveland, Ohio

DOCKET NO. 9405
FILE NO. BR-283

For Renewal of Licenses

PROPOSED FINDINGS OF FACT AND CONCLUSIONS
OF LAW OF THE GENERAL COUNSEL OF THE
FEDERAL COMMUNICATIONS COMMISSION

Benedict P. Cottone,
General Counsel.
Frederick W. Ford,
Thomas H. Donahue,
Counsel,
Federal Communications Commission.

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Communications

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1. The first part of the book is a history of the
2. of the United States, from the first settlement
3. of the country to the present time. It is a
4. history of the people, of their institutions,
5. of their progress, and of their future.
6. The second part of the book is a history of
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8. of the country to the present time. It is a
9. history of the people, of their institutions,
10. of their progress, and of their future.

PRELIMINARY STATEMENT

1. On March 1, 1948, the Commission received a letter of complaint from the Radio News Club of Southern California dated February 28, 1948, and affidavits of various former employees of Radio Station KMPC, and other documentary material, in which allegations of instructions to "slant" news were attributed to G.A. Richards, the President and controlling stockholder (FCC Ex. 224). A few days later the Commission received a supplemental letter from the Radio News Club with additional material dated March 5, 1948 (FCC Ex. 225). On the same day (March 5, 1948) the Commission received the application of Station WGAR for renewal of its license. On consideration of these documents the Commission on March 19, 1948, directed a staff investigation of the matters alleged. Such an investigation was conducted by members of the Commission staff during the month of April, 1948.

2. On August 12, 1948, the Commission sent a letter to Mr. Richards at each of the three stations of which he is controlling stockholder enclosing copies of the material submitted by the Radio News Club, and requesting a complete statement by Mr. Richards under oath with respect to the allegations in that material. On September 3, 1948, the affidavit of Mr. G.A. Richards and Mr. Frank E. Mullen (FCC Ex. 15), who had recently replaced Mr. Richards as president of the corporations controlling the three stations,

was submitted to the Commission together with a large volume of exhibits for each of the three stations. Mr. Richards' affidavit generally denied the allegations in the Radio News Club material. The law firm of Dow, Lohnes and Albertson filed material on behalf of Station KMPC and the firm of Kirkland, Fleming, Green, Martin and Ellis, by Mr. Louis G. Caldwell, filed material on behalf of Stations WJR and WGAR.

3. On November 12, 1948 the Commission adopted an order for an investigatory hearing at Los Angeles, California, upon specified issues relating to the charges of the Radio News Club (Docket No. 9193). On December 22, 1948, a notice was issued by Comr. E. M. Webster setting the hearing on the issues so specified for February 21, 1949. Comr. Webster had been designated to preside at the hearing. The following day the law firm of Wheeler and Wheeler filed an appearance. On February 16, 1949, this hearing was continued to March 16, 1949 on the Commission's own motion.

4. A petition (FCC-Ex. 16) was filed by Mr. Richards on February 24, 1949, requesting that he be personally heard in Washington by the Commission en banc. In this petition, Mr. Richards admitted his "wrongdoing" in respect to the allegations made in the material filed by the Radio News Club and sent to him by the Commission on August 12, 1948. This petition was denied the following day without prejudice to the petitioner to request further public hearings in Washington at the conclusion of the scheduled hearing in

Los Angeles. On March 4, 1949, the hearing was continued to March 23, 1949.

5. On March 16, 1949, the firm of Wheeler and Wheeler filed affidavits of Doctors Steinbach and Thomas alleging, in substance, that Mr. Richards' health was precarious and a hearing would be dangerous to him. They also requested a continuance of the hearing on the ground that an application for transfer of voting control would be submitted. The reason alleged for an opportunity to file the application for transfer of control of the three corporate licenses were that Mr. Richards' health was extremely precarious; that the hearings would impair Mr. Richards' life whether or not he were present; and that for the past five or six years he had stated to his friends his desire to retire on his 60th birthday (March 19, 1949) and planned, prior to his latest relapse in health, to return to Detroit and make such an announcement, but was compelled to return to Palm Springs. The following day an order was adopted by the Commission postponing the hearing indefinitely and providing that such applications to transfer control of the three corporations should be filed on or before April 18, 1949.

6. On April 18, 1949, applications for the transfer of control of the three corporate licensees of Station KMPC, WJR and WGAR respectively, were filed.

7. On July 25, 1949, an order was adopted designating for hearing the applications for transfer of control of these

three stations, on specified issues, and on the same day an order was adopted designating for hearing the application of Station WGAR for renewal on specified issues.

8. A petition was filed by the applicants on August 8, 1949, for an extension of time in which they could file a motion to change the issues. Appearances were filed by the transferors, transferees and WGAR on August 10, 1949. On August 12, 1949, an order was adopted granting the petition for extension of time in which to file a motion to change the issues and extending such time to September 19, 1949. Renewal applications were filed by Stations KMPC and WJR on August 25 and 30, 1949, respectively.

9. A second petition to extend the time in which to file a motion to change the issues was filed by the applicants on September 13, 1949, which was granted on September 16, 1949, and the time extended to October 19, 1949.

10. By an order adopted on September 28, 1949, the renewal applications of Stations KMPC, WJR and WGAR were designated for hearing on stated issues in a consolidated proceeding. By separate order of the same date the outstanding order in Docket 9193 for an investigatory hearing was vacated.

11. Appearances were filed in the renewal proceedings for KMPC, WJR and WGAR on October 14, 1949, by the law firms of Wheeler and Wheeler, Dow, Lohnes and Albortson, and Kirkland, Floming, Green, Martin and Ellis.

12. A third petition for an extension of time to file a motion to change the issues was filed by the applicants on October 17, 1949, which was granted on October 21, 1949, and the time was extended to November 7, 1949. A motion to change the issues was filed on November 7, 1949. This motion was denied by the Commission in a memorandum opinion and order of January 11, 1950, in which the hearing was scheduled for March 13, 1950, in Los Angeles, California. On January 16, 1950, Examiner J. Fred Johnson was designated to preside at the hearing.

13. On February 21, 1950, the law firm of Fulton, Walter and Halley filed four pleadings on behalf of the applicants, KMPC, WJR and WGAR and on behalf of Mr. Richards. A motion for a pre-hearing conference, a motion for a ruling that the burden of going forward with the evidence was on the Commission, a motion for a more definite statement of matters of fact and law asserted and for a bill of particulars, and a petition for conformance of procedure to Section 9(b) of the Administrative Procedure Act. On February 28, 1950, the General Counsel filed a reply to the motion for a pre-hearing conference and the motion relating to the Commission's going forward with the evidence. On the same day a pre-hearing conference was ordered by the Commission for March 1, 1950. By Memorandum Opinion and Order of March 1, 1950, the Commission denied the motion for a bill of particulars and the petition for conformance of procedure to Section 9 of the Administrative Procedure Act. At the

pro-hearing conference, the General Counsel agreed to proceed first with the introduction of testimony, but refused to comply with a series of requests by applicant's counsel to turn over to applicant's counsel before the hearing all documents, affidavits and other material relating to the proceedings in the possession of the Commission. On March 3, 1950, a motion for a 30 day continuance of the hearing was filed by Fulton, Walter and Halley on behalf of applicants and Mr. Richards. This was denied on March 9, 1950.

14. On March 13, 1950, a motion for an order or a subpoena was filed by the applicants requiring the Commission or its General Counsel to produce certain documents and to set aside the order appointing the Hearing Examiner. A statement was filed with respect to this motion by the General Counsel on March 20, 1950, and it was denied on March 21, 1950.

15. The hearing proceeded in Los Angeles before Examiner J. Fred Johnson. On April 1, 1950, Commission counsel completed the presentation of the Commission's direct case with respect to the Los Angeles phase of the consolidated proceedings and the hearing was continued until September 6. On April 6, 1950, the General Counsel filed a petition for reconsideration of the ruling adjourning the proceeding until September 6, 1950, and requesting an advancement of the hearing date. This petition was granted on April 12, 1950, and the hearing ordered to resume on May 15, 1950.

16. Examiner J. Fred Johnson died on May 2, 1950. On May 4, 1950, the Commission designated Examiner James D. Cunningham to preside at the further hearing which had been continued by the Commission until June 5, 1950.

17. On May 9, 1950, the applicant stations and Mr. Richards moved for an amendment to the order appointing the Examiner to direct him to hear all evidence de novo. On May 15, the General Counsel filed a statement agreeing to this motion and it was granted on May 23, 1950.

18. On May 31, 1950, the Examiner issued an order scheduling a pre-hearing conference on June 4, 1950 to determine the order of procedure for the hearing beginning on June 5, 1950. At the pre-hearing conference the applicants insisted that they were entitled to proceed with the introduction of their testimony first at the de novo hearings, contending that the order of procedure established for the former hearings was no longer applicable. This position was opposed by the General Counsel. The Examiner ruled that he would permit applicants to proceed first, and denied a request by the General Counsel for postponement of the hearing until an appeal of the Examiner's ruling could be taken to and decided by the Commission, as well as a request by the General Counsel for a postponement of one day to allow the General Counsel an opportunity to appeal the denial of the foregoing request for postponement. On June 5, 1950, upon the ex parte request of the General Counsel, the

Commission continued the hearing until June 14, 1950 to allow it an opportunity to examine into the merits of the Examiner's ruling. On June 6, 1950, an appeal was filed by the General Counsel from the ruling of the Examiner on June 4, 1950, relating to the order of procedure. Opposition to that appeal was filed by the applicants on June 8, 1950. By Memorandum Opinion and Order adopted on June 12, 1950, the Commission set aside the ruling of the Examiner and ordered that the General Counsel be permitted to proceed first with the presentation of testimony, at least during the Los Angeles phase of the proceeding.

19. The hearing was held before Examiner Cunningham in Los Angeles from June 14 through October 19, 1950, at which time it was continued to November 9, 1950 in Detroit. This was later changed on November 2, 1950 to November 21, 1950, at which time the hearing on these applications was resumed in Detroit before Examiner James D. Cunningham. The record was closed on December 21, 1950, after a total of 113 hearing days.

20. On November 20, 1950, the applicants filed a motion and petition to have the Commission reconsider and grant its application for renewal without further hearing and for other relief which was denied on February 21, 1951. At the time this motion and petition was filed, a memorandum in support thereof was also filed. The General Counsel moved on November 24, 1950 for additional time in which to file his

reply, which the applicants opposed in a reply filed November 28, 1950. The General Counsel's request was denied by the Motions Commissioner on December 1, 1950.

21. On December 4, 1950, applicants filed a petition to re-view a ruling of the Examiner on an oral motion to recess the hearing pending the decision of the Commission on their motion and petition to reconsider and grant filed November 29, 1950.

22. On December 5, 1950 the General Counsel filed an appeal to the Commission from the Motions Commissioner's denial of his request for an extension of time to file an opposition to the motions and petition to reconsider and grant. The appeal was granted by the Commission on December 27, 1950 and the time was extended to January 12, 1951. On the same date, the petition for review filed by applicants on December 4, 1950 was dismissed as moot.

23. On December 20, 1950, an amendment was filed by the applicants to their motion and petition to reconsider and grant. On December 27, 1950, in a memorandum opinion and order the Commission took various actions with respect to the pleadings heretofore mentioned.

24. On December 20, 1950, the proposed transferees and Mr. Richards, parties to the applications for transfers of control, filed a petition to dismiss these applications without prejudice. The reasons assigned for this action were those

set forth by applicants counsel on December 18, 1950 during the course of the hearing on these applications in Detroit (T. 17710 et seq.). Mr. Fulton stated at that time that Mr. Richards consented to the appointment of trustees to obviate the necessity for a hearing. In view of the fact that this purpose failed and the points in issue could be raised again in other hearings Mr. Fulton indicated that a favorable decision on the transfer applications would not set the issues at rest, and, therefore he had been instructed to withdraw the applications for transfer of voting control of the three corporations to trustees. The General Counsel filed a response on December 29, 1950. The petition for dismissal was granted on January 29, 1951.

25. On January 3, 1951, applicants requested oral argument on the motion to reconsider and grant filed November 20, 1950. On January 8, 1951, the General Counsel filed his opposition to the motion and petition for reconsideration and a grant of the renewal applications. On January 16, 1951, the applicants filed a reply to the General Counsel's opposition to the motion and petition for a reconsideration and grant of the renewal applications. On February 23, 1951, in a Memorandum Opinion and Order the Commission denied the motion and petition of the applicants for a grant of their renewal applications and denied their request for oral argument on this motion and petition.

26. The hearings in this proceeding were held in Los Angeles, California and Detroit, Michigan and extended over a period of about seven months involving 113 trial days. Approximately 280 witnesses were heard, 45 of whom were called by the Commission, and 235 of whom were called by applicants. The transcript comprises 18,265 pages, with 641 Commission exhibits and 564 Applicants' exhibits, many of which are very voluminous.

27. At the outset, the General Counsel obtained a subpoena for Mr. G.A. Richards whose appearance as a witness was opposed by his counsel on the ground that Mr. Richards has a coronary heart condition of many years existence, and his appearance as a witness might be fatal to him. Several doctors were called by applicants in support of his counsel's request that Mr. Richards be excused from complying with the subpoena obtained by the General Counsel. After all the medical testimony was submitted, the Examiner excused Mr. Richards from compliance with the subpoena on the ground that his appearance might endanger him. The Examiner denied a request of the General Counsel that the Examiner direct a physical examination of Mr. Richards by impartial doctors. Thereupon, the General Counsel requested that applicants' counsel voluntarily stipulate that Mr. Richards make himself available for physical examination by an impartial doctor or doctors, with the General Counsel offering to stipulate that if the opinion of such doctor or doctors was to the

effect that Mr. Richards should not risk appearing as a witness, the General Counsel would agree to excusing him without even requiring such doctor or doctors to testify to that effect. Applicants' counsel refused the General Counsel's request, giving as his reason that physical examination of Mr. Richards would be "to harass Mr. Richards more than was essential." (T. 7361).

28. The record therefore contains no testimony of the chief official and controlling stockholder of the three applicants. Since the issues relate to the qualifications of the applicants in the light of the qualifications of the chief official and controlling stockholder, findings must be based on the testimony of others as to Mr. Richards' actions, and upon an interpretation of his intentions from what he orally told others, what he wrote to others, and what programming there was on the applicants' facilities which was related to what Mr. Richards said and wrote. Findings must also be drawn in the light of statements (introduced in evidence) made by Mr. Richards to the Commission on various occasions prior to the beginning of these hearings, and in the light of actions relating to the transfer applications filed and later dismissed by applicants.

II

ISSUES

29. The hearing in this proceeding on the renewal applications of KMPC, WJR and WGAR was held on the issues set forth in the Commission's Order of September 28, 1949, published in the Federal Register on October 6, 1949 (14 FR 6096).

This order reads as follows:

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington 25, D.C.

In re Applications of)	
KMPC, The Station of the Stars, Inc.)	DOCKET NO. 9468
Los Angeles, California)	FILE NO. BP-18
For renewal of license of Radio)	
Station KMPC, Los Angeles, California)	
WJR, The Goodwill Station, Inc.,)	DOCKET NO. 9469
Detroit, Michigan)	FILE NO. BR-331
For renewal of license of Radio)	
Station WJR, Detroit, Michigan)	
WGAR Broadcasting Company)	DOCKET NO. 9405
Cleveland, Ohio)	FILE NO. BR-283
For renewal of license of Radio)	
Station WGAR, Cleveland, Ohio)	

O R D E R

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 28th day of September, 1949;

The Commission having under consideration the above-entitled applications for renewal of licenses of radio stations KMPC, Los Angeles, California, filed August 25, 1949; WJR, Detroit, Michigan, filed August 30, 1949; and WGAR, Cleveland, Ohio, filed March 5, 1948;

IT APPEARING,

(1) That on February 28, 1948, the Radio News Club filed with the Commission a complaint alleging that G.A. Richards, officer, director and stockholder of KMPC, The Station of the Stars, Inc., WJR, The Goodwill Station, Inc., and WGAR Broadcasting Company, licensees of Stations KMPC, Los Angeles, California, WJR, Detroit, Michigan, and WGAR, Cleveland, Ohio, respectively, on various occasions issued instructions to members of the news staff and other members of the staff of KMPC, to the effect that news concerning specified individuals, groups and events should be slanted, distorted, suppressed, altered or otherwise treated in a fashion specified by said G.A. Richards in order to promote his private views and interests with respect to public figures and issues of political, social and economic importance; that the complaint further alleged that said G.A. Richards, on at least one occasion, caused the dismissal of a member of the news staff of KMPC because of his failure and refusal to present specified items of news and news comment in a manner prescribed by said G.A. Richards, and designed to reflect the opinions and views of said G.A. Richards; that the complaint further alleged that said G.A. Richards issued instructions directing that specified editorials from newspapers, selected by himself, should be broadcast over the facilities of KMPC, and that such instructions were given because the editorials selected represented the views of said G.A. Richards; that the complaint was accompanied by letters and other documents which are purported to have been written or otherwise issued by said G.A. Richards, and which purported to substantiate the complaint; and

(2) That G.A. Richards, at all times when such instructions were alleged to have been given, was the president of each of said licensees and is now and has at all such times been controlling stockholder of KMPC, The Station of the Stars, Inc., and WGAR Broadcasting Company, and, together with members of his family, controlling stockholder of WJR, The Goodwill Station, Inc.; and

(3) That on March 19, 1948, the Commission authorized and subsequently conducted an investigation of the matters alleged in said complaint with respect to the conduct of said G.A. Richards in relation to each of the said licensees; and

(4) That on August 12, 1948, the Commission furnished said G.A. Richards with a copy of said complaint and copies of documents referred to therein with the request that he submit his sworn statement covering the charges contained in said material; and

(5) That pursuant to said request, on September 3, 1948, G.A. Richards through counsel submitted to the Commission his sworn statement with respect to the matters alleged in the complaint; and

(6) That the foregoing information submitted by the Radio News Club, by the affidavit submitted by G.A. Richards, and additional information obtained during the course of investigations conducted pursuant to the said Commission authorization of March 19, 1948, tending to substantiate the information submitted by Radio News Club, raises substantial questions with respect to the qualifications of the above-mentioned licensees and of G.A. Richards, controlling stockholder thereof, and

IT FURTHER APPEARING that in the light of the foregoing the Commission is unable to determine from an examination of the above-entitled applications for renewal of licenses that the applicants have the requisite qualifications for licensees of radio broadcast stations and that public interest, convenience, or necessity would be served by the granting thereof;

IT IS ORDERED, That, pursuant to Sections 307(d) and 309(h) of the Communications Act of 1934, as amended, the above-entitled applications of KMPC, The Station of the Stars, Inc., WJR, The Goodwill Station, and WGAR Broadcasting Company, are hereby DESIGNATED FOR HEARING at a time and place to be hereafter designated upon the following issues:

1. Whether G.A. Richards has at any time while he was an officer or principal stockholder of the licensees of Stations WGAR, Cleveland, Ohio; KMPC, Los Angeles, California; and WJR, Detroit, Michigan, issued instructions or directives to officers and employees of said licensees—
 - (a) To present news broadcast in a manner designed to give a biased or a one-sided presentation of the news;
 - (b) To broadcast false news concerning particular issues or persons;
 - (c) To broadcast editorials of daily newspapers as news items and without identification of such editorials as such;
 - (d) To discriminate in news and other broadcasts in favor of any political causes, groups, or candidates as against the interests of other political causes, groups, or candidates.

(e) In any other manner to promote or further the private political, social and economic views and interests of Mr. G.A. Richards;

2. To what extent, if any, officers or employees refused to carry out instructions or directives, if any, of the nature specified in Issue No. 1, and what disciplinary action, if any, was taken or caused to be taken by G.A. Richards against any officers or employees of said licensees who may have refused to carry out such instructions or directives;
3. To what extent, if any, the facilities of said stations, or any of them, have been used to carry out said instructions or directives;
4. To determine the accuracy of representations in respect to any of the matters set forth in the foregoing issues, made in affidavits and pleadings submitted to the Commission by and on behalf of G.A. Richards.
5. In the light of the facts adduced under the foregoing issues to determine the qualifications of KMPC, The Station of the Stars, Inc., WJR, The Goodwill Station, Inc., and WGAR Broadcasting Company, and whether a grant of the said applications would serve the public interest, convenience and necessity.

IT IS FURTHER ORDERED, That the proceedings herein are consolidated with the proceedings in Dockets No. 9402, 9403, and 9404; and

IT IS FURTHER ORDERED, in view of the inclusion in this Order of the issues relating to the application for renewal of license of Station WGAR, that the Commission's Order of July 25, 1949, in Docket No. 9405 (FCC 49-1022) is superseded by the Order herein.

FEDERAL COMMUNICATIONS COMMISSION

T. J. Slowie
Secretary

DESCRIPTION OF APPLICANTS

30. George A. Richards, together with his wife and daughter, is the controlling stockholder of the corporate licensees of Stations KMPC, at Los Angeles, California, WJR, at Detroit, Michigan, and WGAR at Cleveland, Ohio, and the three applicants involved in this renewal proceeding. Mr. Richards has controlled Station KMPC, since 1937, WJR since 1926 and WGAR since 1930. He was president of all three corporations until shortly after the time the investigation of these stations was ordered by the Commission in 1948. Shortly after that time, Mr. Frank Mullen became the President of the companies and Mr. Richards took the position of Chairman of the Board of Directors. Mr. Mullen resigned in 1949 and the position of president of the companies was not filled until 1950. Mr. John Patt, formerly manager of WGAR was made President of two of the companies on August 30, 1950 and President of the third company on October 7, 1950. (T. 17962).

31. Mr. Leo Tyson was the first manager of KMPC after it was purchased by Mr. Richards. He was succeeded by Robert O. Reynolds in 1941. Mr. Reynolds has continued as general manager of KMPC since that time and is a vice-president and member of the Board of Directors of KMPC, The Station of the Stars Inc.

32. Mr. Leo Fitzpatrick was the Vice-President and general manager of WJR from the time it was purchased by Mr. Richards in 1926 until the spring of 1946. Mr. Owen Uridge then became the manager of WJR. At the present time Mr. Worth Kramer is manager of WJR.

33. Mr. John Patt, the President of the three companies, was vice-president and general manager of WGAR from the time it was purchased by Richards in 1930 until he was made President of all three companies in 1950. He was succeeded as general manager of WGAR by Carl George, a long time employee of the station.

34. Station KMPC operates on 710 kilocycles with power of 50 kilowatts. It is a Class II station.

35. Station WJR operates on 760 kilocycles with power of 50 kilowatts. It is a Class IA clear channel station.

36. Station WGAR operates on 1230 kilocycles with power of 50 kilowatts. It is a Class II clear channel station.

IV

THE PROGRAMMING POLICIES OF THE APPLICANTS
ORDERED BY G. A. RICHARDS

A. GENERAL POLICIES ORDERED BY RICHARDS

39. The three stations presented a written code or manual of operations containing provisions on controversial issues purporting to constitute the programming policies of the stations. But it was apparent that this code was not effective station policy. Graham, the news editor before Roberts, vaguely remembered having seen it (T. 3823). In fact, many of the employees of KMPC had never seen or heard of the "code" (T. 3420). Chester Renier, the program director of KMPC from September 1945 to February 1948, stated that policy did not originate other than with Richards (T. 3952). This fixing of policy by Richards was confirmed by Vance Graham, a news editor at KMPC (T. 3812). Though Mr. Renier knew of the manual of operations which purportedly set forth the policies of the station on news, controversial issues and other programming, Mr. Richards' verbal orders prevailed over the written policy (T. 3957) and he exercised direction over programming independently of Reynolds (Reynolds T. 415). Actually the programming policies of the station with respect to controversial issues consisted of a series of verbal instructions given to subordinates individually and in staff meetings, and in letters, notes, memorandum, telegrams, and newspaper clippings and editorials with instructions for their use.

40. The basic programming policies on controversial questions sought to be established at the three stations controlled by Richards are most clearly reflected in voluminous correspondence between Mr. Richards and the top officials of the stations. Thus a policy of discrimination and partisan use of the stations' facilities was laid down by Richards and shown in clear-cut written statements and directives given by Richards to the top officials of Stations KMPC, WJR and WGAR. The excerpts from correspondence between Mr. Richards and a number of the officials and top employees of the three stations, hereinafter set forth, show that the basic policy ordered by Mr. Richards beginning in the year 1943 until the time of the publication of the charges which led to the instant proceedings, was to utilize the programming of the stations he controlled to exploit his own political views, particularly to bring about a change of Administration, without providing in such policy for equal opportunity for balance of these views with opposite views.

41. In a letter from Richards to Fitzpatrick, written in 1943, referring to program on WJR known as Victory F.O.B., Richards wrote:

* * * * *

"This is WJR's chance to play its part in helping to eliminate the bureaucrats who would communize our country thereby causing a revolution." (FCC Ex.39)

42. In a letter from Richards to Paro Thomas, the treasurer of WJR, written in 1943 Richards wrote:

"These Jew fugitives from Harvard have really worked up a complicated system for all to rassel with...Just another good reason to work like hell to get them out next Nov. If Fitz won't help I want to know it as soon as possible." (FCC Ex. 37)

43. In a letter from Richards to Fitzpatrick, written in 1943, Richards wrote:

"It's time all broadcasters get busy and tell the people the truth or in 1945 there will be no private ownership...They are desperately trying to keep voters in line for 1944. If they do, WJR, WGAR and KMPC will go on market." (FCC Ex. 574)

44. In a letter from Richards to Fitzpatrick, written in 1943, concerning getting commentators on the Columbia Broadcasting System to tell industry's side of a question and radio's opportunity to be of help, Richards wrote, referring to William Paley, president of the Columbia Broadcasting System:

* * * * *

"Paley will immediately say, that's not in radio's province, but he's wrong and radio can very easily go down if this trend of socialism is not checked by 1944. (Nov.) He could do this unbeknown to anyone....I say regardless of whether the war is won or not in 1944 we simply must get those starry-eyed professors out of there...So let's WJR, WGAR and KMPC do all in our power to bring about the change." (FCC Ex. 40)

45. In a letter from Richards to Fitzpatrick, written in 1943, Richards wrote:

* * * * *

"My mother, Fitz, would be doing her very best if she were alive today to preserve the Am. way of life and save our country from these foreign-minded bureaucrats who have entrenched themselves in Wash. and want to stay there the rest of their lives and tell the Christians and Am. citizens what they can and cannot do in the future. So I want you to think up a way to have her program ^{1/} help to eliminate them in Nov. 1944." (FCC Ex. 42)

1/ This refers to a program carried on the three stations known as "Mother's Album."

46. In a letter written by Richards to Fitzpatrick in 1943, Richards stated:

* * * * *

".....We should keep the idea of Free Enterprise going next year (election year sure) without fail... No matter what the cost...We should encourage all other stations to do the same or their days are numbered--These bureaucrats will take us over the first ones just as sure as your name is Fitzpatrick if not checked and eliminated in 1944." (FCC Ex. 44)

47. In a letter from Richards to Fitzpatrick, dated December 28, 1943, additional directions were given by Richards for the operation of Station WJR:

"We must all pull up our belts and really bear down in 1944--work and fight like you never did before, Fitz....This New Deal must be ousted or we all can call it a day--We are getting set to go to town out here--Get F.O.B. ¹/ going great guns and spend money promoting the program." (FCC Ex. 67)

48. In a letter to Fitzpatrick, dated February 25, 1944, Richards, after referring to a conversation with Fred Crawford, a speaker on "Victory F.O.B." in which Crawford indicated he would have "played it on more heavy" if he had known more about the program, Richards wrote:

"The New Deal is dead Fitz, & now it's up to us all to see that they are buried Nov. 7th. It's our patriotic duty." (FCC Ex. 50)

And in an undated letter to Fitzpatrick, Richards wrote:

"The gloves must be removed war or no war & the truth must be told of their schemes to Communize our country. They must & will be beaten." (FCC Ex. 51)

¹/ This refers to the program "Victory F.O.B." which, it will be shown, was utilized by Richards for partisan political purposes (See infra, pp. 113 to 140).

49. Mr. Fitzpatrick began to fear for the license of WJR in the early part of 1944 if he continued to carry out the policy laid down by Richards. This is indicated in his letter to Richards of April 5, 1944, in which he wrote to Richards:

"In thinking this over, my confusion of thought may be due to the anxiety that I feel, as explained to you over the telephone the other day, relative to the tenor of our 'Victory F.O.B.' programs, in every one of which there has been a complete and thorough anti-New Deal quality. As I told you over the phone, I am jittery and I am leaving for Washington the first of the week in order to line up Senator George or Byrd, or some other speaker, who will at least indicate that we are striving to be impartial in our presentation of 'F.O.B.'." (FCC Ex. 199 excluded). 1/

50. A concise statement of policy was given by Richards to Fitzpatrick in his letter to him of April 18, 1944:

* * * * *

"No matter who is nominated we must go for him 100% and help from our radio end all we can." (FCC Ex. 59)

51. In a letter apparently written in 1944, Richards indicated to Fitzpatrick the policy he was setting for KMPC:

"Get up list of owners and stations for Bricker to write to and keep on his mailing list. He doesn't seem to be organized. No publicity to speak of and no advance men to steam up his coming. No one out here but KMPC paid any attention on radio."

1/ As is pointed out in p. 115 below, this and other letters written by Fitzpatrick were erroneously excluded by the Examiner and the General Counsel herein urges reconsideration of that ruling.

"KMPC had its banner on speaker's stand and our Woody Hattie introduced the pres. of Town Hall who introduced Bricker. We have gone overboard at KMPC so it's a Republican or ruin and it will be a Republican Pres. just as sure as night follows day." (FCC Ex. 60)

52. In complimenting John Patt, manager of WGAR, Richards wrote to him on June 5, 1944:

"Keep up the good work and don't, for heaven's sake, for one minute forget November 7th.^{1/} All our efforts and the hopes of all real Americans can be given a terrific setback if we don't change this Administration." (FCC Ex. 634)

53. Richards' directions on policy for Station WGAR were transmitted through Fitzpatrick as shown by his letter to Patt dated May 29, 1944:

"Mr. Richards has instructed me to inform you.... Incidentally, he would like you to check through your entire radio program schedules and see that any program that tends toward the New Deal is not broadcast." (T. 16588, FCC Ex. 588).

54. A further direction for station operation of WJR is contained in Richards' letter to Fitzpatrick dated July 26, 1944:

"In the meantime we must bend every effort between now and election to save free speech in America.... Dewey and Bricker will lay the truth right on the line to the American people and I am sure they will not be fooled any longer. So keep plugging, Fitz, and urge John to do the same."

"Keep plugging away, Fitz, on F.O.B. and the news and we will be glad we did." (FCC Ex. 592)

55. The fact that Fitzpatrick understood exactly what policy Richards desired WJR to follow is shown by his letter to Richards dated July 31, 1944, in which we wrote:

"I thought that along the political line we would follow the plan that the Republican Party is using,

^{1/} This was the date of the national elections in the year 1944.

and concentrate all of our direct activities to the 9 weeks before the election, as I understand that is what Dewey plans to do, and we could work hand in glove with those plans using our 'In our Opinion', 'Victory F.O.B.' with speakers, 'Know Your America'--all our own programs--and our commentator when we decide upon one." (FCC Ex. 79 excluded)

56. In a letter to Fitzpatrick, dated June 13, 1944,

Richards wrote:

"I want to be consistent right on through up to November 7th, always bearing in mind that free speech is in jeopardy and we must protect it with our lives. I want this theme to be kept going at all three stations right up to election time...Bricker is still in there pitching and I admire his determination. Rebroadcast his speeches whenever you can, as well as Rickenbacker's, Hoover's and other good Americans whenever you can dig them up. I have one of Ed's here now and Bricker's on the way, and I think one is on the way to you also." (FCC Ex. 76).

57. Specific policy statements were customary with Richards especially as it involved the use of the facilities he controlled for his partisan political purposes. An example of this kind of declaration of policy to his subordinates is contained in a letter he wrote to Fitzpatrick (in 1944?):

"The CIO blitz is serious as is the whole New Deal set-up. They must be licked or we are washed up.... Let's keep hammering away on Mike Free Speech till Nov. 7th and be ready to say--"Thank God" in big ads for all (3) right after election. Then follow up with quotations from Lincoln and others...Julius Caesar, Napoleon, Hitler, Mussolini and others have tried it but all fell on their faces like FDR will. Let's pour it on. Haven't had a chance for 12 years. The FCC can't ruin us with Dewey in...Let's have a big blowout on F.O.B. Nov. 11. Put Dewey or Bricker on...." (FCC Ex. 619)

58. In a letter to Fitzpatrick, dated August 7, 1944,

Richards wrote:

"This fall I wish you would call our people together and tell them the facts regarding this election." (FCC Ex. 82).

59. Fitzpatrick's understanding of Richards' policy statements is shown by his letter to Richards, dated September 25, 1944, in which he wrote:

"WWJ, WXYZ and ourselves all have the same objective, and that is the carrying of Michigan for Dewey and the responsibility of getting out the largest vote we possibly can." (FCC Ex. 200 improperly excluded).

60. Richards follow-up on the execution of his policies is shown by his telegram to John Patt, Manager of WGAR, dated October 3, 1944:

"How are Hughes broadcasts going and what is political situation in Ohio? Stay right with it John. It's the most important election since the Civil War. You must stand up and be counted regardless of past attitude." (FCC Ex. 90)

61. The policy of using the stations for partisan political purposes was shown by Richards' letter to Cushing, WJR News Editor, dated October 14, 1944, in which Richards wrote:

"We are going to work out a series of 6 to 7 records for the final week of the campaign in such a way that all northern centers with 3, 4, 5 or more stations can use them the way we intend to here. I will have Bob Reynolds keep in contact with WJR and WGAR regarding same...Keep fighting, George, for the greatest cause we have ever had an opportunity and privilege to be associated with." (FCC Ex. 104)

62. In writing Fitzpatrick with reference to the policy underlying the program "Victory F.O.B." broadcast on the three stations Richards stated:

"We might as well carry on till election doing the best we can. The southern stations of course don't do any good. Keep hammering away on protecting our Constitution, it's about all we can do I guess...We are going to win Fitz, but everyone has got to work like hell. Keep fighting and urge John on." (FCC Ex. 113)

63. Richards, in a letter written by him to Fitzpatrick, dated October 17, 1944, stated:

"...all of our efforts and news from now until election should be in a confident vain and pointing out that Democrats and all other voters are turning to Dewey and Bricker every day." (FCC Ex. 114)

64. In a letter to Fitzpatrick, Thomas and Patt written in 1944, Richards wrote:

"I am not going to tolerate any New Dealers especially anyone like Moore who has access to our mike. We will do all in our power to help in the war effort as we always have but not one word to perpetuate these bureaucrats in office or to further their Communistic plans." (FCC Ex. 56C)

65. After the election was over in 1944, Fitzpatrick, after referring to the disappointing result, stated in a letter to Richards, dated November 10, 1944:

"The only consolation we can possibly have is the fact that we did everything that was humanly possible, insofar as radio was concerned, to convince the voters of the dangers of 16 years in office." (FCC Ex. 106 improperly excluded)

66. Richards' policy on access to the microphone at WJR is contained in his letter of November 27, 1944 to Fitzpatrick in which he wrote:

"Regarding Moore (an employee of WJR). I want you to let him go and anyone else who has his ideas that had the use of our microphone. Of course, you will let him out on the basis that we are going to reorganize the Farm Hour." (FCC Ex. 610)

67. The political policy of the three stations in the 1946 Congressional elections was dictated by Richards in a letter to Fitzpatrick in 1945:

"So I want to do everything we can at Det. and Clev. and L.A. to work to elect as many congressmen as possible in 1946." (FCC Ex. 205).

Further evidence of this policy is set forth in Richards' letter to Fitzpatrick, dated September 7, 1945, in which he was discussing a build up for MacArthur for the presidency in 1948:

"In the meantime, lets try and add one member to House from our 3 stations..." (FCC Ex. 206)

68. Richards, in trying to secure commentators for his stations, laid down the policy of the stations with respect to their employment in a letter to Fitzpatrick in 1945:

"Fitz, they must be sold on a change in the Adm. or we don't even want to consider them or anyone else--they (whoever we hook up with) must be ready and anxious to fight for a clean out of all traitors and Communists and Red Fascists in Wash. and work to elect new Rep. congressmen in 1946 and clean out the tramps in Wash. who are plundering and ruining our country.xxxLet's get going as the time is running out for the 1946 elections. Keep me posted." (FCC Ex. 210)

69. This political policy was expanded and made more aggressive in a letter from Richards to Clete Roberts in 1947 in which Richards stated:

"We should learn to beat the New Dealers with their attacks on business and other issues. We can expect this and that in next few months-- Beat them to the punch--Accuse them of everything under the sun. Put them on the defensive instead of allowing them to be on the offensive.

"Keep fighting Clete. Our country is worth it."
(FCC Ex. 246)

70. Richards sought to engage Upton Close as a commentator in connection with the forthcoming presidential elections and he sought the aid of Lewis A. Weiss, then president of the Don Lee Network, in a letter to him, dated September 3, 1947:

"I am going to be here until the 15th of September and won't you please drop me any suggestions that might help get this man (Upton Close) on within the next 60 days and keep him on until the 1948 election.

"I only want to do these things Lew, until election. After that we will go back and dog eat dog again. If we don't get these tramps out there won't be any dog to eat--as you well know!" (FCC Ex. 216)

71. The most elaborate and clear-cut delineation of program policy for all three stations is contained in a letter of welcome to the top executives of the three stations at a meeting in Los Angeles dated January 21, 1948 in which

Richards wrote:

"I place in importance, over and above all these various individual problems, the all important one of a new administration in Washington. Again, I warn you all that without this change this year, our great Country is in for a terrible going over. As I have been trying to point out and sell you officials for the past seven or eight years, no country can continue to carry the burden of a spend and elect administration forever. We must use very legitimate means within the framework of our Constitution to help change this incompetent, communistic-dominated administration. Without a change in the administration this Fall, we are bound to drift into some sort of socialistic screw-ball form of government, which will make it impossible for ourselves and the entire world to ever hope to get back on its feet.

"Let's leave these meetings with a firm determination that we will plan and work and do as our forefathers did— fight with everything possible to make this change. 1948 will go down in history as the year America decided not to go Communistic.

"When you return to your important posts, I know you will work and plan during every waking hour of the day between now and November to help in every conceivable way to win this great fight. When the battle is won, I am sure that you will all be grateful for the opportunity that you have had to serve this great Country of ours. Please give my best regards to every member of your splendid organization and encourage them all to get into this greatest of all crusades." (FCC Ex. 6).

72. Robert Reynolds, the manager of KMPC echoed this policy in a memorandum to Richards and Harry Wisner, his assistant, dated February 3, 1948, in which Reynolds wrote:

* * * * *

"2. Cleto Roberts will submit his resignation or express a desire to continue with us by Thursday or Friday of this week. He understands thoroughly that he can do the latter only on the basis that he will go along 100% with company policies. These policies are:

A. To do everything within our power to elect a new Administration....."

* * * * * (FCC Ex. 21)

B. INSTRUCTIONS REGARDING NEWS PROGRAMMING

72. The implementation of the policies set forth in the correspondence quoted above, was sought to be achieved in large measure by Mr. Richards by instructions to his employees with respect to news programming. These instructions will be discussed according to the subjects concerning which they dealt.

1. Instructions to present biased news against individuals disfavored by Richards

73. Mr. Richards told Cleve Roberts, who was the Director of News and Special Events at Station KMPC from about January 1, 1947 to February 6, 1948, that Bernard Baruch was a Jew who was advising the Administration to serve his own ends and he instructed Roberts to stop talking about him and broadcasting about him (T. 5363). He instructed Roberts, in innumerable telephone conversations, that because of his (Richards') belief that Helen Gahagan Douglas, Democratic Congresswoman from California, consorted with Jews and was married to a Jew, Mrs. Douglas' name should be played down, de-emphasized or omitted from the news as much as possible (T. 5356).^{1/} An additional reason given by Mr. Richards for his instructions concerning the treatment of Mrs. Douglas on KMPC broadcasts was that he felt she was an extreme liberal and in some manner inspired by the Communists (T. 2908). Mr. Richards instructed

^{1/} Richards also phoned Frank Hemingway, a witness for KMPC, and told him to boost Mrs. Douglas' opponent saying, "I would back anybody to get that Douglas woman out of there (T. 8854).

Vance Graham, a KMPC news editor, to give the activities of Mrs. Douglas' opponent in the 1946 Congressional elections as much prominence as possible (T. 3915). He specifically directed Roberts to "skip" Mrs. Douglas in connection with invitations to Congressmen to speak over the facilities of KMPC (FCC Exhibit 29).

74. At the time that Leon Henderson was Administrator of OPA, Mr. Richards instructed Arch Hall, a newscaster, to select and clip from the newspapers stories unfavorable to Henderson for inclusion in his newscasts (T. 2906). Similarly, because of his expressed belief that Sidney Hillman, through his connection with the CIO, was linked with the Communist Party, he instructed Arch Hall, News Editor at KMPC, to use in Hall's newscasts, in many cases throughout the day, items selected by Richards from the newspapers which were unfavorable to Hillman (T. 2908). At the time of the death of Harry Hopkins, a high official in the Democratic Administration of President Roosevelt, the news of his death was carried in the newscasts at KMPC. Mr. Richards called the newsroom and gave instructions that on future broadcasts no reference was to be made to the death of Harry Hopkins (T. 2057, 2058).

75. Mr. Richards, on numerous occasions, singled out Howard Hughes, who was prominent in the airplane and motion picture industry, for distorted treatment in the news. He ordered members of the newsroom staff to omit from the news anything which was favorable to Howard Hughes (T. 3523, 3386). On one

occasion Mr. Richards directed Maurie Starrels, a KMPC news-writer, to gather all of the people in the newsroom around a radio and listen to Fulton Lewis, Jr., a network news commentator, who was delivering a most critical and unfavorable broadcast on Howard Hughes (T. 3395). On numerous occasions, Mr. Richards told Clete Roberts to quote fully articles appearing on the news wires critical of Howard Hughes, particularly those which would link him with Elliott Roosevelt, son of the late President Roosevelt (T. 5368). Mr. Richards frequently called the newsroom and gave orders that particular articles should be used in the news which were unfavorable to Francis Perkins and Harold Ickes (T. 2926).

76. One of the most concentrated attacks which Mr. Richards made was on David Lilienthal at the time his nomination to the Atomic Energy Commission was being considered by the Senate (March and April 1947 (T. 1020)). He made numerous calls instructing KMPC newsmen to emphasize in newscasts comment unfavorable to Mr. Lilienthal (T. 5311, 4580) and to urge listeners to write or wire their Congressman protesting his appointment even though the newsmen told him that this could not be done on a newscast (T. 5311, 5312). Richards' stated reason for his wish that Lilienthal be treated in this manner on KMPC broadcasts was that Lilienthal had been feeding at the public trough all his life, that he was a Jew and had Communistic tendencies (T. 5312, see also Cushing 16517).

Richards selected from the newspapers items unfavorable to him and instructed newsmen to quote them heavily in the news. He wrote notes to them attaching items unfavorable to Lilienthal that he wanted included in the news (T. 5314, FCC Exhibit 258). He criticized newsmen for deleting parts of newspaper items so selected. He cautioned his subordinates to omit news items favorable to or supporting Lilienthal (T. 5314, 3523, 3432). Mr. Richards directed that the newscasts indicate that Mr. Lilienthal was of foreign birth, was a Jew and that comments in the news unfavorable to him be given prominence (T. 3422, 3386). The nature of his instructions on this subject is indicated by his statements to George Lewin, supervisor of the newsroom at KMPC, and to Cleve Roberts. To the former, he said: "Always give David Lilienthal hell. He is a Jew and a Communist. We don't want him in the government." To Roberts, he wrote (FCC Exhibit 258): "Here is the Byrd story--Fulton Lewis is taking off on this tramp and we want to listen to him and do the same --So please do everything possible to defeat him and notify all newsmen.... Listen to Fulton Lewis every day at 4 PM Please for dope on Lilienthal. We must lick him." (T. 5344).

77. At the time of the death of Charles Michaelson, a writer for the late President Roosevelt, Richards called Roberts and dictated the following phraseology to be used on newscasts reporting Michaelson's death: "Charles Michaelson, the smear artist of the Roosevelt regime died today." Roberts

protested the propriety of such a remark to Richards, but Richards insisted that it be used. Roberts modified the language to read, "Charles Michaelson who wrote many of the speeches for the New Deal, is dead. Michaelson, considered by some as the 'smear artist' of the Roosevelt regime died today in Washington at the age of 78." (T. 5346-5348, Newscast Jan. 8, 1948):

78. On one occasion Mr. Richards entered the newsroom at KMPC at the time John Dehner was the News Editor and told Dehner, "Smear that guy Meyer, John", referring to Dillon Meyer who was in charge of the War Relocation Authority (T. 4773). Mr. Dehner understood Mr. Richards' order to mean that newspaper items be found and included in the news for the purpose of damaging Mr. Meyer's reputation (T. 4825).

79. At the time Edwin Pauley, towards whom Mr. Richards professed friendship, was subjected to criticism because of speculation in grain in 1947, Richards called Clete Roberts and instructed him to headline the story in the news. Pauley was at that time an official of high rank in the Democratic Administration. Richards stated that he hated to do that because he knew Pauley, but Pauley had gone over to the other camp (T. 5431). In accordance with his understanding of Mr. Richards' desires, conveyed to newsmen by constant telephone calls, Eddie Lyon, a newscaster at KMPC, prepared a newscast concerning Harold Stassen's

statement with respect to Pauley's grain dealings in which he pointed out that Edwin Pauley was a millionaire and a former Treasurer of the Democratic National Committee "basking in the sun" in Hawaii to cause ill feeling toward him (T. 4133, 4134). Lyon prepared another story on this subject which consumed an unusually large part of the newscast and was too long. These items were written in an effort by Lyon to go along with station policy and to please Mr. Richards (T. 4134, 4145).

30. Mr. Richards expressed to his newsmen a great hate for the late President Roosevelt, members of his family and his Administration, as the basis for various instructions as to the manner in which these subjects were to be dealt with in the newscasts and other programs over the stations controlled by him. When John Dehner was News Editor of KMPC, Richards paid for Dehner's subscription to the Los Angeles Examiner, a daily newspaper, and instructed him to go through the paper before he came to work and select items to use on his newscast in accordance with Richards' telephone calls to him, particularly items which would place President Roosevelt in a bad light. After telling Dehner these things Richards would say, "We have to get rid of that bastard in the Whitehouse" (T. 4780). On November 2, 1944 Richards telegraphed Fitzpatrick, Manager of WJR, to "Please cut

in and use Farley story about election often and late many many times..." (FCC Ex. 103) which referred to James Farley who was opposed to the reelection of Roosevelt. (T. 16726). On one occasion Walter Carle handed Arch Hall an item which Mr. Richards ordered used on a newscast, following a speech by President Roosevelt. Hall refused to use this item for the reason that it had nothing to do with news. However, when Carle told him that it should be used, Hall used the item the next evening after re-writing it and toning it down. Following this, Mr. Richards telephoned Hall and criticized him for failing to read the article as written in accordance with his orders (T. 2936-2938). Prior to this incident, Richards told Arch Hall, a newscaster on KMPC from 1941 to 1943, and for a short time in 1944, that he thought Roosevelt would be defeated; that the country was going to the dogs; that the Communists were taking over and Hall must cooperate and work very hard to see that Roosevelt was not re-elected. (T. 2935) When Eddie Lyon returned to KMPC to work in the newsroom in 1946, Richards told him that he was a very devout Republican and that there was to be nothing favorable to the Roosevelt Administration mentioned (T. 4098). The attitude of Mr. Richards toward the Administration was common knowledge around the station (T. 6596). Clete Roberts

was told by Richards to report criticism of Roosevelt in the news especially that mentioned in the newspaper columns of the newspaper columnist Westbrook Pegler (T. 5335). The practice of the news writers during the time that Starrels and Roberts were at KMPC was to skip over items concerning the Roosevelts (T. 4738).

81. Shortly after the death of President Roosevelt, Mr. Richards, adverting to the fact that KMPC as well as other stations throughout the country had devoted considerable amounts of time to programs mourning the death of the late President, directed the giving of instructions to the staffs at Stations WJR and WGAR "not to mention the rest of the Roosevelts over the air any more except in case of more deaths and then only a short paragraph." By Mr. Richards' own handwritten admission, these instructions were being placed "into effect today at KMPC", (FCC Exhibit 204, T. 1690).

Sometime later, during a Congressional investigation in 1947 into certain activities of Howard Hughes in which the name of Elliott Roosevelt, son of the late President, was involved in connection with certain loan transactions and income tax questions, he directed Roberts, "to dig up" past information, unrelated to the current news events concerning Elliott Roosevelt, which would show him in a bad light. Specifically, Roberts was told

to prepare a news script, for use in the newscasts containing everything unfavorable he could find about Elliott Roosevelt, his background, personal escapades, parties he attended in Hollywood, the persons he was associated with, the chorus girls of Hollywood, including a reference to "Elliott Roosevelt's blond wife", which would adversely reflect upon him. Roberts was told by Richards to tie in the information so "dug up" about Elliott Roosevelt with the Hughes hearings to create the impression that Elliott Roosevelt and Howard Hughes had been engaged in a conspiracy to defraud the taxpayers of the United States (T. 5333, 5368, 5369). These instructions were confirmed by Richards to Clete Roberts admittedly in his own handwriting (FCC Ex. 18). Richards told Roberts to quote fully Senator Ferguson's "blast" against Hughes (T. 5368). Material was assembled and placed in a special broadcast at which time recordings were made for WJR and WGAR. A condensed version was written by George Lewin and included in a straight newscast (FCC Ex. 261, 234, 5369, 4585).

82. On one occasion Mr. Richards called George Lewin and instructed him to feature in the news an item on Elliott Roosevelt. Mr. Richards ordered Lewin to include in this story, references to past events involving money that Elliott Roosevelt had once borrowed from the

President of the A & P Tea Company; an old story involving an incident in which Elliott Roosevelt's dog "Blaze" "bumped" some servicemen off an Army plane because of the dog's high priority and to include other items which were unfavorable to Elliott Roosevelt.

Mr. Richards instructed George Lewin to use this story on a newscast and it was prepared and used on more than one newscast (T. 4724, 4585). Lewin prepared this item, headed "Elliott Review", carrying out Mr. Richards' instructions. (FCC Ex. 238).

83. Similar unfavorable treatment in the newscasts was directed by Mr. Richards with respect to the other sons of President Roosevelt and with respect to Mrs. Eleanor Roosevelt, wife of the late President. (T. 4576, 3144, 3151, 2919). In his conversations with Arch Hall, Mr. Richards in speaking of Mrs. Roosevelt would say, "Give her hell, Arch." In discussing items with John Dehner about Mrs. Roosevelt, Richards would refer to her as "that old bitch". (T. 4780)

84. As Eddie Lyon, a newscaster, explained an item in one of his newscasts for October 6, 1947, in which the name of Mrs. Roosevelt was mentioned in connection with the deportation of Hans Eisler, an alleged Communist, "Well, the point is this: The story refers to Communism. It refers to Mrs. Eleanor Roosevelt as aiding the Eislers

to obtain their visa. Hardly a person thinks of the Roosevelts without thinking of the Democratic Party, and thus having linked verbally the Roosevelt administration with Communism and the Eislers, I immediately go into a story on Speaker Martin telling the Republican Party's anticipated victory and what a great job the Republican 80th Congress has done; and that would be in accordance with the policy of the station". (T. 4129). Mr. Richards similarly instructed Walter Carle, news editor of KMPC in a note saying: "Can you imagine Eleanor R. saying she never discusses 4th term etc.? Ridicule hell out of these kind of statements. She must know so she can make her contracts for 'My Day', lectures, etc." (FCC Ex. 228, T. 2794).

85. Mr. Richards continued his policy of utilizing the stations controlled by him to reflect his personal attitudes in respect to the Democratic administration by instructions and lectures to his employees relating to the manner in which President Truman and members of his family were to be treated in newscasts. ^{1/}

86. Thus in May, 1947, he telephoned Ted Grace, a newscaster at WJR, and criticized him vigorously for

^{1/} For a short period after assumption of office by President Truman, Mr. Richards expressed himself to the vice president and general manager of WJR in language commendatory of President Truman and his policies. (See FCC Ex. 303, 204) No specific instructions relating to Truman are shown by the correspondence to have been given by Richards in this period.

devoting what he (Richards) believed was too much time to an item concerning President Truman's aged and sick mother. In the judgment of Grace, in checking the news of the hour, the story of the President's mother who, though bedridden at the age of 94, had managed to rise from her bed, deserved the time he had given it. This conversation resulted in Grace's refusal to continue to work at WJR and will be discussed later (T. 16125).^{1/}

87. Richards instructed Cleve Roberts on innumerable occasions to cut down on the wordage in newscasts with respect to President Truman and occasionally complained that the President was quoted too fully in newscasts (T. 5304). At times, Mr. Richards called Roberts' attention to items appearing in the newspapers criticizing Truman and ordered the quotation of such criticism in the news though the story may have been several days old (T. 5304). The news staff carried out Richards' instructions concerning President Truman by pointing up the Republican point of view and predicting a Democratic defeat in the impending Presidential election of 1948 (T. 4239, 4241, 4242, 4243, 4247). In a conversation with Maurie Starrels concerning President Truman's veto of the Taft-Hartley Act, Richards told him, "Nobody cares what he has to say", referring to Truman. Richards then told Starrels to go easy on the story and play it down.

^{1/} This situation, of course, is in strange contrast to the dedication given on KMPC on July 18, 1948 to President Truman's mother (T. 2328). This was after publication of the charges which led to the instant proceedings.

(T. 3386, 3511). George Cushing, WJR newseditor appeared to be thoroughly indoctrinated by Richards and required very little prompting from Richards. Thus, he directed Joseph Hainline, a newscaster, to omit reporting Truman's speech until one by Taft came in because Truman's speech wasn't very good (T. 16278).

88. Mr Richards' views on this subject were reflected in instructions to newscasters to exploit by means of the newscasts comment unfavorable to the President's daughter, Margaret Truman. Thus, at the time of a concert given by Miss Truman in Pittsburgh, there was considerable adverse comment by music critics of Miss Truman's performance. Mr. Richards specifically ordered that this comment be carried on KMPC on every newscast of the day (T. 4956, 5083).

89. Mr. Henry Wallace, former Vice President and Secretary of Commerce in the Democratic administration, and Presidential nominee of the Progressive Party in the 1948 Presidential election, was a subject concerning whom Mr. Richards particularly addressed instructions for unfavorable treatment to his newscasters (T. 2927, 3521).

Richards told John Dehner and other newscasters on numerous occasions to put Wallace in a bad light in the news and at times to omit news concerning him altogether (T. 4771, 2571, 3521, 3386). While Wallace was Secretary of Commerce, Richards ordered that under no circumstances was his name to be used on a newscast (T. 2568, 2569, 2570), or if he were mentioned it should only be in a derogatory manner (T. 2570, 3969). Richards would call Charles Teas, a newscaster, and tell him in referring to Wallace and others, "We have got to get together and watch that stuff, anything that is favorable; and anything that is good about them, why skip it, forget it" (T. 6596). Richards directed Starrels and other newsmen to deprecate Wallace on every possible occasion and to couple his name in the news with items on Russia or Communism (T. 3389, 5353). In a telegram sent from Washington, D.C. by Richards to Robert Reynolds, Manager of KMPC, dated May 19, 1947, (FCC Ex. 254, T. 5281) which related to a rally held by the Progressive Party in support of Wallace, Richards stated: "Have Clete really take that traitor apart". Reynolds forwarded the telegram on to Roberts (T. 5282).

90. Richards gave specific instructions to newsmen to use particular epithets in describing Wallace such as "tumbleweed", "pin-head" and "screw-ball" (T. 5352, 3782, 4587). Richards ordered Charles Teas to use the word

"Pig boy" in referring to Wallace in a newscast and to leave a note for other newscasters to do the same.^{1/}

Richards also called another newscaster, Robert Horn, and told him to put a note on the bulletin board to the same effect (T. 3801), which was seen by Vance Graham and John T. Desch (T. 3801, 2056). Ralph Turner, a newscaster and witness for the station was told by Richards in referring to Claude Pepper, "I think we ought to refer to him as a 'crackpot'" and on objection of Turner, Richards told him to forget it (T. 12829).

91. Individuals of the Jewish faith were the subject matter of directives by Richards having to do with treatment of news about such individuals in a manner designed to minimize news favorable to or which might elicit sympathy for them and to emphasize unfavorable news about them by express association of the unfavorable news with the faith of the Jewish individual concerned.

92. Mr. Richards on many occasions gave instructions concerning the handling of news relative to persons of Jewish faith. He told Cleve Roberts to refer to Jewish people in an unfavorable light and to accentuate the fact that they were Jewish (T. 5291). At one of the staff meetings which

^{1/} Teas thought Richards said "Big boy" and replied "He sure is a big one", and Richards became vigorous and said, "Pig-boy-Hog", that is what I mean (T. 6538). Hemingway, the star witness for KMPC, confirmed Teas' testimony concerning Wallace and the policy of the station concerning him (T. 8859, 8886).

Richards attended with the newsmen he stated in substance that there was a Jewish plot to take over the Administration that should be exposed and when individuals mentioned in the news were Jewish the fact that they were Jewish should be accented (T. 5292). On one occasion Richards called John Desch in the newsroom and directed him to read an item concerning some hoodlums in Florida who happened to have names which sounded Jewish. Mr. Richards told Desch that he wanted those names played up and repeated at the end of the news item, eliminating other names in the item which were non-Jewish. Mr. Desch followed this instruction and broadcast the item as he was directed by Mr. Richards in a newscast over Station KMPC (T. 2061, 2093). In speaking to members of the news staff at KMPC Mr. Richards frequently emphasized the fact that in his opinion Jews were ruining the country and that they were responsible for a lot of the Communism, mismanagement, price increases, and many other things that were wrong with the country (T. 4022).

93. In addition when there were any gang land slayings or criminal activities, Mr. Richards wanted the Jewish angle of any such situation emphasized (T. 4022, 4023).

Richards referred to Roosevelt in speaking to Fred Henry at the time of his employment in 1941 as a "Jew lover" and he termed Morgenthau a "dammed Jew" (T. 3486).

94. Mr. Richards did not instruct John Dehner to smear Jews as such but did tell him to use certain items about individuals of Jewish faith. He did say to Dehner, "We have

got to run these God-damned Jews out of the government, John." Or he did say about Melvin Douglas, "We have got to get these kike actors out of Hollywood." In using the term "Jew" or "kike" Richards' manner and tone were definitely derogatory and expressed a personal dislike (T. 4780).

Robert Reynolds was present at meetings of the newsmen when Richards denounced persons of Jewish faith (T. 3969).

95. Instructions by Richards to newsmen as to the treatment to be accorded in newscasts to persons of the Jewish race were on a number of occasions accompanied by remarks that all Jews were Communists and that all Communists were Jews (T. 3150, 3390, 3795, 4098, 4940, 6973).

96. Even Robert Reynolds who had either no recollections or vague recollections as to instructions given by Richards with respect to newscasts recalled that Richards would talk about Jewish persons, particularly in a general discussion of Communism, and stated that he believed many Jewish people were susceptible to Communism (T. 886, 887). These statements are confirmed in the letters which Mr. Richards wrote to Fitzpatrick. For example, in a letter to Fitzpatrick (dated February 28, 1944?) Richards wrote, "I see no reason why Rev. Sheen as well as a fine Protestant Minister who believes as Father Sheen does, should not be invited on FOB. No Jews." (FOG Ex. 52)

97. News concerning Bernard Baruch, previously referred to, was to be minimized (T. 5363).

98. Congressman Sol Bloom was the subject of an observation made by Richards to Fred Henry, a newscaster, that, "No one by the name of Bloom could make a good point," in connection with a discussion as to the use in Henry's newscast of an item quoting a remark of Congressman Bloom (T. 3480).

99. Richards talked to Roberts on more than one occasion about the treatment of news concerning one Isadore Ginsberg when the latter was involved in an investigation into the "grey market" and directed him to be sure and broadcast the item concerning Ginsberg's alleged grey market activities and "make his name sound like it was" (T. 5374).

100. On one occasion John Dehner found an item clipped from a newspaper on his desk with the initials "G.A.R." on it which was to be used on his newscast. The item was one concerning criticism of the promotion of Melvin Douglas, a prominent stage and screen actor, and the husband of Congresswoman Helen Gahagan Douglas, to an army captaincy, in which reference was made to Mr. Douglas' name as "Hesselberg" (T. 4744). Richards phoned Dehner about the item and said, "John, this article about Melvin Douglas. Read his real name, John." Richards also gave orders to Arch Hall to refer to Melvin Douglas by his real name, Melvin Hesselberg, or Melvin Douglas Hesselberg (T. 2907). Richards had a similar conversation with Robert Horn (T. 6701).

101. Richards called Charles Teas in the newsroom one night after the 11 p.m. newscast and told him to delete the title "Doctor" in broadcasting an item about Dr. Isadore Lubin reporting his appointment to a position in the Democratic Administration in Washington. A previous story had come in on the wires about 10 a.m. and Richards had already called Walter Carle, the news editor, and told him to run the story all day because, "I want you to stress that name Isadore, and I want you to make it perfectly plain that another Jew is in there." The story did not warrant any further treatment and Richards' directive was ignored. Carle left instructions with the news staff that if there was anything new on this story it could be used. Teas called Carle, read the item to him, and told him about Richards' instructions. Carle directed Teas to read the story exactly as it had been read at 11 p.m. which included the title "Doctor" (T. 6727, 2788).

102. Reference has already been made to the directions given by Richards concerning David Lilienthal (Supra p. 34), and it has been pointed out that Richards directed his newsmen to treat Lilienthal unfavorably in the news because of his (Richards') stated reason that Lilienthal was a Jew with Communistic tendencies.

103. Mr. Richards' reasons for the treatment which he instructed his newsmen to give to Major General Bennett Meyers appear to have been based, in part at least, on an incident

at Richards' home in which General Meyers and Richards became involved in a heated controversy. In the heat of the argument Richards ordered Meyers out of his house. Richards related this incident to the newsmen, and told them that he hated the man (T. 4139). Regardless of Mr. Richards' reasons for his actions in respect to newscasts involving Meyers, the record shows numerous instances of instructions by Richards to newscasters to give emphasis to news stories concerning General Meyers in connection with allegedly criminal activities and otherwise unfavorable news with the stated objective of conveying to the public the impression (whether or not it was the fact) that General Meyers was Jewish. Thus when Meyers was in the news in connection with a series of alleged or proven nefarious activities, Richards instructed the newscasters to refer to him as "Benny" and to report the news in such a way as to do Meyers no benefit (T. 4139, 4972). He instructed Cleve Roberts to refer to Meyers as "Benny" and to "make it sound like what it is, Jewish" (T. 5294). If Richards heard the word "Bennett" over KMPC he would call and remind the newsmen to use the name "Bonny" (T. 5295, 5436). In his instructions to Maurie Starrels, a news writer, Richards was more violent toward General Meyers and told Starrels, "to get that son-of-a-bitch, take care of that Jew bastard" and to present news concerning him in as unfavorable a light as possible (T. 3389).

104. In the same vein of linking criminal or otherwise nefarious activities of individuals with the suggestion that they were of the Jewish faith, there were numerous occasions on which Richards called the newsroom with respect to news concerning Allen Smiley and Bugsey Siegel, underworld characters in Los Angeles, directing that news with respect to them emphasize the fact that they were Jewish (T. 3386, 3408, 3386, 4023, 4105, 4932).

105. Similarly, in the treatment of news concerning a government employee named Israel Moses Sieff, Mr. Richards told John Dehner, "These Jews had a hell of a business being in our Government and should be run out of the Government" (T. 4839).

106. His attitude concerning the use of the stations he controls in disparagement of Jews and the Jewish faith is clearly reflected in written instructions given to Leo Fitzpatrick on April 4, 1943. Referring to an incident in which Richards expressed irritation at what he understood to be a refusal or unwillingness of certain motion picture producers to release a motion picture dealing with the life of his close personal friend, Eddie Rickenbacker, he said: "I hope our News Room has given Zanuck, Litvak, Warner and other kikes plenty of mention. They along with Winchell and other Jews who hold commissions should be very proud of their showing so far in the war. They are not Americans, they think only of themselves and their race altho they

are honored with a citizen's card" (FCC Ex. 42, T. 1044). "Zanuck, Litvak and Warner" were individuals in high positions in the motion picture industry. Whether or not all or any of them were Jews, in the general context of this letter and of other instructions by Mr. Richards as to the treatment to be given Jews in the news, it must be found that the "mention" intended was an unfavorable mention and that there was an obvious singling out by Mr. Richards of individuals whom Mr. Richards believed to be Jews for unfavorable treatment in the news in connection with this incident.

107. Mr. Richards ordered that the amount of time devoted to reporting news on Palestine be reduced because, as he stated, publication of this news would arouse sympathy for the Jewish efforts. It is significant that this policy to temper newscasts that might arouse sympathy for Jews, was corroborated by the testimony of applicant's own witness Turner, a newscaster employed by KMPC at the time he testified. On one occasion he told Clete Roberts to cut down on the wordage in reporting news from Palestine and on numerous other occasions he instructed various newscasters that they should omit news or reduce the amount of news concerning Palestine (T. 3146, 5296, 6061, 3392). At the same time that Mr. Richards was giving this type of instruction he was also giving instructions that news with respect to the Ku Klux Klan who burned a cross on the campus of the

University of California, Los Angeles, and who were also having trouble at various places in the country, should be ignored (T. 6700).

108. It is most significant that the fact that Richards' laid down a policy that news items which might arouse sympathy for Jews were not to be included in newscasts, was corroborated through the cross-examination of applicant's own witness Turner, a newscaster who was employed by KMPC at the time he testified, and who had no recollection on direct examination of any instructions by Richards with respect to treatment of news concerning Jews (See pp. 111 to 112, *infra*).

109. Other individuals were selected for unfavorable treatment in the news because of apparent personal dislike of Mr. Richards for them. Howard Hughes appears to fall in this category though Mr. Richards' attitude concerning treatment of the news about Hughes was also based upon Hughes' business or other associations with Elliott Roosevelt (T. 5368). Some of the instructions concerning Hughes have already been related (*Supra* p. 33).

110. A number of other individuals were singled out by Richards as subjects of instructions for unfavorable treatment in the news. Richards, through George Cushing at WJR, instructed newsmen to compare John L. Lewis with Hitler and Mussolini (T. 16109). Through his news editor he

indoctrinated newscasters with his likes and dislikes which included Charles Chaplin and the use of any news unfavorable to him (T. 3190, 4931). An example of one of those personal dislikes was Clarence Dykstra, Provost of the University of California at Los Angeles. Richards told his news staff, "Get this man Dykstra who has our fine young American girls sleeping with Jews and Negroes on the campus at UCLA" (T. 5300).

111. The record shows instances involving instructions from Richards with respect to labor which reflect a policy that news stories covering strikes, labor leaders, and particular labor unions were to be treated in such a manner as to reflect discredit upon strikers, the unions, the labor leaders and the Democratic administration.

In a memorandum to Roberts and Lewin concerning the telephone and coal strikes in April of 1947, Richards told them "Until these two strikes are over climb all over the Administration and unions for allowing this to happen. Criticize both vigorously until the strikes have been settled." (FCC Ex. 126) Mr. Roberts passed this information on to the newsmen at KMPC (T. 5210).

112. In his initial instructions to Eddie Lyon, Mr. Richards told him to belittle the CIO at all times (T. 4098). Newscasters at WJZ were told by Richards through Cushing to compare John L. Lewis with Hitler and Mussolini (T. 16109).

Mr. Richards frequently told Clete Roberts to always refer to the Taft-Hartley Act as the "working mans bill of rights." (T. 5268) This was confirmed by Richards own handwriting on a letter he received from Congressman Coughheart (FCC Ex. 255). He also wrote John Patt on July 5 (1947), "The bill should work out to be a new 'Declaration of Independence' for the AM. workmen and management. Let's refer to it as such over and over and over again." (FCC Ex. 256)

113. Richards wrote to Fitzpatrick (FCC Ex. 52), "Pour it on strikes. Always precede by a war story of our losses and sacrifices of our boys. There is no excuse for strikes during war times whatsoever. The Pres. is responsible for them all." In another letter (FCC Ex. 66, December 26, 1943) to Fitzpatrick, Richards wrote, "I want you to work with Cushing every day until strikes are over getting out news that will help shame these unions to go back and stay on the job. On the eve of our boys going over the top on the 2nd front these bastards have the disloyalty to strike I think is terrible and the Administration bungling of these home matters is worse--so let me know how you handle the news until it's over." Mr. Reynolds, the Manager of KMPC, saw nothing improper in using newscasts to "shame the unions" for striking in wartime because he did not believe the subject was controversial (T. 1240-1241). At a later point (T. 1263) Reynolds stated that it was not controversial to "shame the unions" by means of newscasts, because he believed that Mr.

Fitzpatrick could have disregarded Mr. Richards' instruction by dealing with the strikes on a straight objective news basis. Applicants' counsel objected to the question as to whether it would not have been more proper to have dealt with the subject of strikes in another type of a program or programs than newscasts which was specifically designed to afford expression of the viewpoints of both management and labor on the issues in the strike (T. 1241).

2. Instructions to present biased news in
favor of individuals favored by Richards

114. Contrasted with this treatment of persons who were in disfavor with Richards was the treatment in the news which he instructed the newsmen to give to those individuals that he liked personally or favored politically. First and foremost of this group was General Douglas MacArthur. Mr. Richards instructed John Dehner to play up General MacArthur when the occasion presented itself "as probably the greatest American alive" (T. 4776). As far back as 1945, in a telegram sent by Richards to the manager of KMPC, he said: "General Kenney on 'We the People' program 1/ gave fine report on MacArthur. Use on newscasts often." (FCC Ex. 208, T. 1689). He told David Anderson, a newscaster, that General MacArthur was always to be held high--and "that was an order" (T. 4529). Stories concerning General MacArthur were to be "played up" (T. 3809). Richards instructed Cleve Roberts in many telephone conversations that MacArthur was to be presented most favorably in the news, complimentary comments about him were to be "played up", speculation favorable to MacArthur as the nominee of the Republican Party for President were to be broadcast prominently and no criticisms of MacArthur, particularly with respect to his political chances, were to be broadcast (T. 5378). Richards directed George Lewin many times to use everything possible in the news which was favorable to General MacArthur (T. 4589).

1/ "We the People" was and is a nationwide network program having a general format of dramatization of news events.

Mr. Richards stated that he wanted General MacArthur to become president and that any news that showed MacArthur in a favorable light was to be used (T. 4100). For example, the Los Angeles Examiner carried a story on a Marine corporal who stated as his opinion that MacArthur should be president. This item was what is known in the trade as a kick-back which was not part of the news of the day, but an item was deleted from Eddie Lyon's newscast to make room for the story which Mr. Richards directed he use in the newscast (T. 4101, 4249, 4251).

115. It was planned by the backers of General MacArthur to start a dignified campaign in January of 1948 to acquaint the people of the country with MacArthur's qualities which would build up, through commentators, to a climax in June (FCC Ex. 269, T. 5478). At the instance of Robert Reynolds who acted pursuant to a suggestion made by Mr. Richards, Clete Roberts was sent to Tokyo to interview General MacArthur.^{1/} When Roberts returned, he reported his opinions of MacArthur's physical condition to Richards, advising him that the General had a quiver in one of his hands and a tremor in his knees. On December 11, 1947, Roberts devoted his program to an admittedly laudatory commentary about General MacArthur and he included a reference to the quiver and tremor in connection with a discussion of the likelihood and unlikelihood of the General's acceptance of a Presidential nomination. A few days

^{1/} General MacArthur personally knew Roberts who had been awarded the Purple Heart by the General and who had been a correspondent at MacArthur's headquarters during World War II.

later Roberts was quoted by Walter Winchell, a network news commentator. Upon learning this, Richards told Roberts that, "singlehanded I (Roberts) had ruined General MacArthur's chance for the presidential nomination on the Republican ticket". He ordered Roberts not to broadcast anything more of this nature on KMPC (T. 5459-5467).

116. Roberts and Reynolds previously had a conversation concerning the content of the broadcast and it was used as a publicity piece by the station with full quotation of Roberts' language including the reference to "the slight quiver" (FCC Ex. 19, 20, 20A), with the full knowledge and approval of Mr. Reynolds. Betty Hudson, an employee at KMPC, handled the details of this publicity and though Reynolds professed lack of recollection of the details, Miss Hudson was never called by the applicant to refute the sworn testimony of Roberts concerning this incident. No excuse for her non-production was offered (T. 5468).

117. Other personalities were the subject of instructions by Mr. Richards for favorable treatment in newscasts. In some cases, the basis for the instruction was personal friendship, personal espousal by Richards of the viewpoints of the individual involved, or personal dislike of other individuals involved in controversy with the favored individual or a combination of these factors. Thus, Richards ordered newsmen to build up or "play up" favorable news about John Bricker, then Governor of Ohio and a potential candidate for the

Republican Presidential nomination in 1944, telling Dehner in giving him this instruction: "There is our next President, John." (T. 4777). He directed that Senator Owen Brewster be treated favorably in connection with a controversy between Senator Brewster and the newspaper columnist, Drew Pearson (T. 4110). Governor Thomas E. Dewey of New York, under Richards' instructions was to be shown in a favorable light and quoted fully while at the same time criticism of him was to be minimized (T. 5387, 5252). Richards wrote John Patt, manager of WGAR, on September 28, 1944 (FCC Ex. 571), "Regardless of your personal feelings, I want you to watch our newscasts carefully and every other activity at the station, putting our best foot forward for Dewey. When our country is being destroyed you can't be neutral." Joseph ~~Hainline~~ ^{Hainline}, "a hostile witness" and newscaster at WJR, was well aware of Mr. Richards' views on Dewey but would not admit that Richards ordered him to reflect those views in the news (T. 16365-16370). Similar instructions for favorable treatment and minimizing criticism were given by Richards as to Harvey Firestone (T. 6535), Governor Earl Warren (T. 4777) of California, and Senator Arthur Vandenberg of Michigan (T. 6535, 2944).

118. Mr. Richards demanded that his stations be used to favor the President of Eastern Airlines, Capt. Eddie Rickenbacker, who was the best man at Richards' wedding, a former business associate of Richards, and his close personal friend (T. 2422).

On one occasion when Eastern Air Lines lost an airplane in an accident, Richards called the newsroom and directed that the fact that it was an Eastern Air Lines plane be deleted from the newscasts because, by his own statement, it might reflect adversely upon the company in which Rickenbacker held a high official position (T. 4252). Richards instructed Roberts that when Rickenbacker visited Los Angeles he was to be well covered in the news, to report his speeches and put his public utterances on the air (T. 5383). When the motion picture dealing with the life of Rickenbacker ^{1/} was released, Richards instructed Harry Patterson, a newscaster, to write a two-minute story on this event which was carried on newscasts over KMPC for several days (T. 2544).

119. At a time when Gerald L. K. Smith was having trouble holding meetings around the country, Richards called Robert Horn, a newscaster, and told him to ignore the stories (T. 6700). On another occasion, Eddie Lyon was told by Richards to delete a tape recording of proceedings of the House Un-American Activities Committee from a newscast because J. Parnell Thomas, the Chairman of that Committee, was shown in an unfavorable light (T. 4111).

^{1/} This was apparently the same motion picture in connection with which Mr. Richards desired criticism of "Zanuck, Litvak, Warner and other kikes" (Comm. Ex. 42) to be expressed in newscasts.

C. THE TECHNIQUES OF NEWS DISTORTION ORDERED BY RICHARDS AND EMPLOYED BY NEWSCASTERS.

1. Linking or coupling news items.

120. Mr. Richards' instructions frequently specified the techniques to be used to achieve the purposes intended. Thus, he directed the particular manner of the placement of news to accomplish the coloration he desired. One of his expressions to Charles Teas in calling his attention to items in the newspaper would be "tie it in" or "tie it together" (T. 6555). This had reference to the linkage of news stories concerning the New Deal or disfavored personalities with stories on Communism (T. 6555). Similar linkage techniques were directed by him in respect to stories on Communism and stories about Jews generally or Jewish individuals. Thus he ordered Robert Horn to follow such linkage on these subject matters whenever possible (T. 6973).

121. On one occasion Richards instructed Horn to lift a story from the back page of a Los Angeles newspaper. The story was about four men who had been convicted of black marketing. Richards considered the men to be Jewish and told Horn to stress the Jewish names and in doing so said that, "It was high time that we exposed these God damned black marketing Jews for what they really are." (T. 6698) This story was used on every newscast between 7 and 11

o'clock and was linked directly with a story on Communism which followed it (T. 6974).

122. It was a practice of Richards to instruct newsmen that individuals in his disfavor were to be coupled with news items relating to news stories about criminal activities, or linked with stories about Communism (T. 5434). Vance Graham, on one occasion was told by Richards to place two news items together. He said, "Put so and so next to so and so. That is the way to do it." (T. 3783). Richards told Maurie Starrels to link Henry Wallace's name with items concerning Communism. (T. 3516). On occasion, Mr. Richards went so far as to dictate the precise way in which this coupling or linking of individuals should occur. He ordered Robert Horn on one occasion to handle a story concerning Henry Wallace's arrival in Los Angeles as follows: "Henry Wallace, the peanut head, arrived in Los Angeles today and gave what could be construed as a Communist salute." Horn included the statement in a newscast. (T. 6698).

2. Omission

123. Another technique used by Mr. Richards was to direct the omission of news. This method was employed with respect to favorable news items concerning David Lilienthal, President Roosevelt, Henry Wallace and other

individuals whom Richards disfavored. As has been pointed out above, shortly after the death of President Roosevelt, Richards directed the omission from newscasts on the three stations of all mention of any of the Roosevelts. In the case of President Roosevelt, Mr. Eugene Carr, who at the time was Assistant to the President of the three applicants, told Vance Graham that he didn't like to hear the name Roosevelt used in a newscast. That this policy was one laid down by Mr. Richards is shown by FCC Exhibit 204, in which Mr. Richards instructed Messrs. Fitzpatrick and Patt not to use the name of the Roosevelts except "in the case of more deaths" and then only a brief mention. Mr. Richards stated that that policy had been placed into effect at KMPC. For about a month or more Graham succeeded in reporting all the news from Washington without using the name Roosevelt. At the end of that time he received congratulations from Mr. Carr (T. 3799). Similarly, his order to Roberts forbidding future reference to the tremor in General MacArthur's hand (supra p. 60), and his order to Starrels to go lightly on President Truman's veto of the Taft-Hartley Act (supra p. 43) are examples of this particular technique, as were the instructions to play down comment favorable to Lilienthal's confirmation as chairman of the Atomic Energy Commission (supra p. 35).

3. Ridicule, Derision and Emphasis

124 As previously shown, Mr. Richards frequently directed that only favorable news be used with respect to certain individuals and only unfavorable news used with respect to others. In giving instructions Mr. Richards on one occasion told Charles Teas to read to him over the phone a part of a newscast which Teas expected to broadcast. When Teas finished, Richards pointed out those parts of the item which were to be stressed. (T. 6548).

125 It was the practice of Mr. Richards to instruct newscasters to use particular descriptive phrases such as "pip squeak" in referring to President Truman during his campaign of 1948 (T. 4121). The word "Bureaucrat" was also one that he directed be used derisively in describing personalities in the Administration (FCC Ex. 75).

126 Mr. Richards urged the use of voice inflection by the newscasters, to bring about unfavorable impressions of individuals disfavored by him (T. 4106). He instructed members of the news staff to listen to the broadcasts of Fulton Lewis Jr., for the purpose of learning to imitate the sneer Mr. Lewis was able to inject in his voice (T. 4106).

127. At one time Henry Wallace had been offered a job as an executive with a pin manufacturing company and Mr. Richards told Vance Graham to use something to the effect that "At last the pin head had received the type of

job that was worthy of him, the head of a pin manufacturing company". Graham included this statement in a broadcast (T. 3782). It has been pointed out above that on one occasion he ordered that Wallace be referred to as "pig-boy" (supra p. 46).

4. Repetition

128. The technique of repetition of news items, without regard to whether the news value of the item warranted such repetition was a technique which was frequently directed. Frequent injunctions were given the newsmen by Mr. Richards to use a particular item he desired used and pass it on to the next newscaster. (T. 4783, 4582, 4557, 3804, 3774, 3373, 3322, 3210, 3187, 2908, 2575, 2546). This became a standard practice at KMPC for items which Mr. Richards directed to be used in newscasts. In fact, the newsmen formed the habit of writing on various items, "a must on every newscast. G.A.R." or similar orders (T. 3423, 4121, 4958, 4239). This insured the repetition of an item so that Mr. Richards' purpose would be effectively achieved.

5. Deletion

129. Mr. Richards directed the deletion of particular parts of wire copy stories favorable to unfavored individuals or unfavorable to favored individuals. On occasions Mr. Richards called Robert Horn and asked to

have read to him an item of wire copy. Mr. Richards would then direct Horn to omit that part of the story which presented the side of an issue to which Mr. Richards was opposed (T. 6707). An example of the technique of deletion is that concerning the instruction to delete the word "Dr." in the name of Dr. Isadore Lubin at the time he was appointed to an official position in the government (supra p. 50).

130. Reference has already been made to the instances in which Richards ordered Lyon to omit mention of the Eastern Air Lines plane involved in an accident because of his friendship for the president of that air line, Eddie Rickenbacker (supra p. 62).

6. False News

131. At the time that Mrs. Roosevelt had an automobile accident in 1946, Richards called Robert Horn and asked him if he couldn't report the item and make it appear that Mrs. Roosevelt was drunk. Horn replied that he knew of no way to do that and Richards dropped the subject (T. 6709). Charles Stone, a newscaster at the time and a witness for KMPC, stated that he was present in the KMPC newsroom at the time Horn received this call from Richards (T. 12783). Vance Graham, the News Editor at the time, recalled a conversation concerning this

subject by Richards with one of the newsmen but thought that Charles Teas was the newsman involved (T. 3813).

132. At one of the staff meetings Maurie Starrels recalled Richards asking the newsmen how they could start a rumor which would aid the Republicans in the election, at the time that they were discussing ways and means of aiding the Republicans in the coming election (T. 3397).

133. Clete Roberts recalled that at one of the staff meetings Richards told the newsmen to make a report to the effect that Eleanor Roosevelt and Henry Wallace would run on the same ticket and added that later the station could deny it (T. 5427). Larry Thor recalled this situation more vividly. Richards said at the meeting, "We want the truth. We have got to have the truth on the air." Within the minute he said, "I wonder how we can start a rumor about old lady Roosevelt and Henry Wallace running on the same ticket." (T. 4939).

134. On one occasion Mr. Richards called Maurie Starrels and told him to prepare a story concerning Edwin Pauley and use it in the newscast he was preparing, stating that Mr. Pauley had cabinet aspirations and these aspirations had been killed off by his involvement in the grain speculation scandal (T. 3391, 3562). Richards gave Starrels no information as to the source of this story.

Nor was any such story contained in any of the wire copy dispatches from which newscasts were prepared by Starrels and other members of the news staff (T. 3391, 3362). Such a story was prepared by Starrels and incorporated in a newsprint.

135. In response to questions by applicants' counsel, a number of witnesses pointed out the manner in which the instructions by Mr. Richards constituted a falsification of news. Starrels stated that news broadcasts over KMPC were false in the sense it was distorted and out of balance and gave an untrue impression with respect to Palestine, Howard Hughes, David Lilienthal and others (T. 3738). He further stated that while particular items in themselves were not false, playing down the news under instructions from Richards created a false impression. (T. 3741).

136. Arch Hall stated that using Westbrook Pegler on a straight newscast would be deceitful if it were presented or interpreted by the listener as news (T. 5157). Jack Slattery stated that he could not say whether the editorial opinions he read over the air were true or false, but the editorialist probably thought they were true though the witness was not able to make such a determination (T. 2650). Walter Arnold stated with

respect to the deception in reading editorials on newscasts, "I do believe that - I do think they were, if I may use the term misleading as it was the only view offered in a particular newscast"(T. 3220). John Dehner stated with respect to whether he broadcast anything contrary to the fact as he knew it,

"No. As I said in that previous statement, the items of themselves I will not say are false. No, they are not false; but it is the reason **behind** why they were used that gives them a quality of falseness, a quality that was not intended in their original use as it originally appeared in the paper. I will not say the articles are false, of course not. The reason behind it, why they were put in **news broadcasts**, is what makes them criminal, gives them a quality of falseness." (T. 4895).

Charles Teas stated that some of the things he broadcast would not, as far as he knew, be false, but they certainly were misleading, such as using an editorial and not identifying it as such (T. 6620).

137. As has been pointed out in discussing the techniques which Mr. Richards directed the newsmen to use, such as coupling or linking items on Communism with groups or individuals which he opposed, deleting news, emphasizing news, selecting unfavorable and favorable news items, all constitute means of **distorting** news and thereby giving it a quality of falseness. For example, before the abolition of the OPA, Vance Graham was told by Richards to quote leaders in favor of its abolition more prominently than

those who wished to retain that agency. After OPA was abolished, Richards told Graham to show in the news that the general trend of prices was down, even if he had to pick isolated stories from remote sections of the country and minimize the stories from Washington that would show a national trend (T. 3876). Mr. Richards' instructions in this respect were to emphasize beyond their legitimate news value stories from isolated sections of the country in order to prove his case that the abolition of OPA would result in the downward trend of prices. In the language of the witness, "if there were a story from a little town such as Keokuk, Iowa, that pork chops dropped three cents a pound since the abolition of OPA, we were to seize on that story and to even lead with it, give it a prominent place in our newscast. And if we mentioned anything from Washington at all about a general trend up, that was to be minimized." (T. 3881).

7. Newspaper Editorials and Feature Articles.

138. One of the techniques that Richards directed be employed in newscasts was the incorporation of newspaper editorials, and comment from newspapers of an editorial nature reflecting his personal and partisan opinions. George Cushing, the news editor at WJR, said that Richards ran his "own little private clipping bureau" (T. 16510) though Cushing denied using them.

139. There is a very distinct line of demarcation made in the handling of news as between news reporting and opinion (T. 2851). For instance, the feature article by Louis Bromfield (FCC Ex. 227) ordered to be used by Richards (*infra* p. 218) was a statement of his opinion of the activities at the Democratic Convention in Chicago which he characterized as "Democratic Session Under 1-Man Rule" and compared it to Nazi Party conventions. Mr. Walter Carle, who was instructed by Richards to read this article on the air and who had years of experience in both newspaper reporting and radio news work, stated that an opinion story of this kind necessarily utilized certain facts such as the time of the meeting, the place of the meeting and things of that sort which were fundamental and academic. From that point on in a story of this nature, which is an opinion story, the story is colored deliberately to reflect the opinion of the writer (T. 2854). Mr. Carle further stated that opinion as distinguished from straight reporting has to do with a man's thinking around the issues involved in a particular question and his composition and release of a story reflecting those opinions, his own opinions. On the other hand, factual news reporting should be devoid of anything that reflects the reporter's idea of the right or wrong of the issue. His job is merely to cover the facts, present what

happened, to whom it happened, where it happened, what happened, the basic facts of a news story (T. 2879). Mr. Richards' instructions as heretofore set forth contemplated the use of opinion stories which were not factual and which did not represent straight news reporting on straight newscasts which indicates a desire to pervert newscasts for the purpose of convincing the public of his points of view in the guise of factual news.

140. In selecting newspaper items, editorials and editorial comment from newspapers, Mr. Richards selected items on the subjects which have previously been discussed that reflected his own personal point of view. The article by Louis Bromfield (FCC Ex. 227) which Mr. Richards directed Walter Carle to inject in a straight newscast was violently anti-Democrat. One sentence from the body of this article reveals its vituperative character. "If you substitute the name Hitler for Roosevelt, you have the exact atmosphere of the Nazi Party conventions of 1934 and 1935 in Nuremberg." This statement was in characterization of the Democratic National Convention of 1944.

141. At the time John Dehner was news editor, Richards called him on the telephone nearly every day and told Dehner to get a newspaper and Richards would go through the newspaper item by item and tell him to read selected

items on his newscast and then pass them on to other newscasters. These conversations were either preceded or followed by extended remarks by Richards on his personal antipathies for President Roosevelt, Mrs. Roosevelt, Henry Wallace, OPA, Dillon Meyer, Jewish actors and Jewish government employees (T. 4770). John Dehner identified a number of news items, feature articles and editorials demonstrating the type of items Mr. Richards instructed his newsmen to read (FCC Ex. 240 and 241). Many of them contained notations such as "Use 10:15. GAR." Dehner had retained these particular items when he left KMPC and had them in his possession for several years. These items corroborate the testimony of numerous witnesses concerning the instructions which Mr. Richards gave them in this respect. These articles all present one point of view and are in criticism of the Administration or of particular members of the Administration. The headlines of the articles indicate their nature. The titles of some of these items follow:

- "Food Crisis Blamed Upon 4th Termers"
- "Rep. Randolph Hits Crackpot Washington"
- "Reds Rampant in Key Jobs, Says Lawmaker"
- "Socialistic 'Inner Circle' Rules U.S."
- "Bureaucratic Groups Flayed"
- "Melvyn Douglas Army Promotion Under Fire"
- "Pick M'Arthur, Rep. Fish Asks"
- "FDR Urged to Oust 'Socializing' Group"
- "Vandenberg Hits Wallace"
- "Bureaucracy 'Stupidity' Hit"

"Costello Hits Bureaucracy"
"Warren Gains at Mackinac"
"Paulson Raps Agency Rule"
"Wallace Counted Out as 1944 Political Factor"
"Year More before Nazi Fall, Says Rickenbacker"

142. Mr. Richards told Chester Renier, the program director, to use particular editorials on newscasts. These editorials usually were favorable to a great American, the Republican Party or anti-Communist in nature (T. 3951). On a number of occasions Richards ordered Renier to see that certain Westbrook Pegler columns were included in newscasts, and told him that it was unnecessary to say that they were Pegler's columns (T. 3951-3954).

143. In Richards' conversations with Jack Slattery, a newscaster, he pointed out certain editorials in the newspaper. He instructed Slattery to take certain paragraphs and use them. These paragraphs were usually from columns or editorials by Westbrook Pegler, who throughout those years was strictly anti-Administration (T. 2642).

144. In one of Walter Arnold's conversations with Mr. Richards on the telephone, Richards instructed him to read an editorial from the Los Angeles Examiner which appeared to be in opposition to Lend Lease (T. 3204). On another occasion Richards told Arnold to read an editorial that had to do with and was favorable to the America First Committee, Senator Burton K. Wheeler, and Congressman Hamilton Fish (T. 3208). On one occasion,

Richards called Latimer on the telephone and ordered him to read verbatim on his next newscast an editorial or feature article by the Financial Editor of the Los Angeles Examiner which was anti-labor in nature (T. 2616), in addition to other stories which Richards pointed out. Latimer read the news stories but did not read the feature article (T. 2560). Latimer recalled a particular newscast made up entirely of items taken from the newspapers on the direct instructions of Mr. Richards. This occurred one evening when Latimer had just completed about three hours' work on his 8 p.m. newscast in writing and rewriting it. Approximately twenty minutes before the broadcast, Mr. Richards called on the telephone and directed Latimer to certain pages of the Los Angeles Examiner and ordered him to read the stories verbatim. Latimer told Mr. Richards that these stories would consume the entire 15-minute newscast. However, Mr. Richards replied that, "he didn't care how long it took, if it did take the whole 15 minutes, to do it." One of the stories included by Mr. Richards was that of Robert Taft voicing a stand critical of the Administration's policies (T. 2573).

145. Fred Henry, a newscaster at KMPC, on five or six occasions, was asked by Richards, to include in news-

casts for the day editorials from the newspapers. These items involved speeches favorable to America First meetings and speeches by Lindberg, Senator Nye and Senator Wheeler for that group, for isolationism and against the British (T. 3477, 3490).

146. Larry Thor, a newscaster, had numerous telephone conversations with Richards in which he was told to get the Los Angeles Examiner or the Los Angeles Times, turn to a certain page for a particular item and "Cut it out of the paper and use it". (T. 4931).

147. From time to time Mr. Richards called Robert Horn, who was giving a newscast sponsored by the Los Angeles Times, and directed him to clip editorials from the Examiner and include them on his regular newscasts.

148. In a note to Cleto Roberts (FCC Ex. 246, T. 5230) Mr. Richards wrote, "Here is a good editorial by Bingay—put on the air. Let's learn how to ask and answer questions like this article does. It is very effective. We should learn to beat the New Dealers with their attacks on business & other issues. We can expect this and that in next few months—beat them to the punch—accuse them of everything under the sun." Enclosed with this note was an editorial by Malcolm W. Bingay upon which was written, "Babe, please give to Cleto. Ask him

to use and keep. Dad." Babe was a term of affection used by Richards toward his daughter, Rozene, who was partially employed at the station at that time. A second copy of this editorial also carried a note in Mr. Richards' handwriting, "Clete, how true. Use over and over. G.A.R." This editorial or column is headed "Who Owns the Fish" referring to the President as one of the common herd, not a demigod, and inquiring where the idea started that the President is a sacrosanct individual repeating what is handed down to him by God. There were other occasions upon which Roberts received editorials from Richards with instructions to broadcast them on Station KMPC (T. 5230).

149. "Counter Attack", an anti-Administration publication was received regularly in the KMPC newsroom with instructions from Richards to quote from it generously along with Westbrook Pegler's columns, for which a special drawer was set aside. The same was true of the "Chairman's Letter" (FCC Ex. 252, T. 4256) a publication of the Chairman of the Republican National Executive Committee. No similar publication of the Democratic Party was ordered to be given the same treatment (T. 5266). An issue of "Counter Attack" for August 13, 1948 was brought to Eddie Lyon by John Baird, then Program Supervisor of KMPC, and

a witness for applicants in this proceeding, with the statement that Mr. Richards wanted it used in a news-cast. Lyon told Baird that he couldn't use it. But thirty minutes later Baird came back and said, "Eddie, I am sorry, but Mr. Richards insists upon it." (T. 4255).

150. Newscasters attached the newspaper clippings and editorials which they used to their newscripts. However, in examining the available newscripts during the course of the hearing, some of these witnesses were able to locate only a very few of those which they used (T. 4413, 4121).

151. In a number of instances directions were given by Richards to use editorials without identification of such material as editorial comment. While the record does not indicate that the instructions for the use of such editorials or editorial comment were always accompanied by directions to omit such identification (T. 4931, 3477, 3490, 2572), it clearly shows a number of instances where a specific directive was given by Richards to omit such identification (T. 2642, 2554, 5435, 3951, 2059).

which featured "An Editorial for Today." The record does not show to what extent, if any, the identification of editorials on this program was in conformance to instructions from Mr. Richards.

D. EFFECTUATION OF NEWSCASTING POLICIES
LAI D BOWN BY MR. RICHARDS

1. Unavailability of KMPC Newscasts for
Period Prior to September 29, 1947.

152. At the time Commission investigators visited Station KMPC in April 1948, information was given to them showing that no newscrip ts were available for the period prior to October, 1947, and that a number of scrip ts were missing in the period for which newscrip ts were available (FCC Ex. 9, T. 540 et seq., 6324). Although lists of all newscasts available were prepared by applicants and ~~marked~~ in evidence as Applicants Exhibits 29, 30, and 31, there is no way of determining from the record what newscrip ts are missing in the period for which newscrip ts are available since there was no correlation by applicants of these lists with the newscasts shown by the KMPC logs as having been given (T. 6328, 14334). The available scrip ts as shown by these Exhibits begin with the date September 29, 1947.

153. Several questions were raised by Commission Counsel during the hearings seeking explanation for (a) the absence of scrip ts for the period prior to September 29, 1947; and (b) the incompleteness of the scrip ts subsequent to September 29, 1947 as was shown by the testimony of all newscasters who appeared as witnesses and who were asked to examine their available scrip ts during the course of the hearing, for purposes of identification.

154. Upon the evidence of record, it must be found that shortly following the publication of the charges which led to these proceedings and prior to the arrival at KMPC of Commission investigators (April 1948), personnel at station KMPC deliberately destroyed or otherwise did away with newsprints for the period prior to September 29, 1947 and likewise destroyed or otherwise did away with particular newsprints and portions of newsprints subsequent to that date. The following facts compel this finding.

155. Clete Roberts was discharged on February 6, 1948 (T. 5458). He was employed on or about January 1, 1947 (T. 5176) and was in charge of the newsroom with complete jurisdiction as to all matters relating to the newsroom, including jurisdiction over disposition of newsprints (T. 5446 et seq.). Any destruction or other disposition of newsprints while he held this position would have come to his attention. No newsprints, to Roberts knowledge, were ever destroyed or otherwise disposed of during this period (T. 5448). Therefore, at the time Roberts was discharged on February 6, 1948, there were available at KMPC newsprints going back at least as far as January 1, 1947.

156. While Clete Roberts was Director of News and Special Events at KMPC the newsprints were placed in a box after they were broadcast and periodically moved by George Lewin to a storage cabinet. When the cabinet was filled either George Lewin

or Eddie Lyon took them to the second floor storage room accompanied by Joe Taylor, the janitor. Roberts never gave any instructions on the period of time newsprints were to be kept nor did he have any discussions on the subject with any one during that period of time and no newsprints were destroyed as far as he knew (T. 5446-5448). Chester Renier, Program Director at KMPC until February, 1948 (T. 3947), never had any discussions with any one with respect to the disposal of newsprints nor did he have any knowledge of any ever having been destroyed (T. 3972). Rowena Geraghty, Reynolds' secretary, admitted that the length of time newsprints were kept depended on who was in charge of the newsroom at a particular time (T. 6298).

157. After Clete Roberts left KMPC and Eddie Lyon became news editor, Lyon followed the same practice of storing the newsprints. The boxes used for this purpose were boxes in which they received rolls of paper for use on United Press teletype machines. The boxes held about a month's supply of newsprints with slips inserted to show weekly divisions (T. 4107-4108). After the complaint of the Radio News Club became known but before Commission investigators arrived at KMPC, Reynolds asked Lyon to bring him samples of the newsprints. Lyon visited the storage room and found approximately 12 boxes of scripts (scripts for approximately a year) (T. 4259). Joe Taylor, the janitor

at KMPC, was called as a witness by applicants in an effort to refute the testimony of Roberts and Lyon. However, Mr. Taylor was so thoroughly confused and contradicted himself so repeatedly that his testimony is completely worthless (T. 12362-12425).

158. Reynolds testified that the station never had a policy on the retention of newscrips until the latter part of 1946 or early 1947 when he had a discussion with some one, who he could not remember, though it may have been with Mr. Sigmon, KMPC engineer, since Reynolds could not recall discussing the subject with any one else. It was agreed that newscrips would be retained for four or five months (T. 557). It would have been Mr. Sigmon's responsibility to implement this policy (T. 559). This testimony did not contradict the testimony of Roberts or Lyon which indicated that newscrips until at least as far back as January 1, 1947 were available at the station at the time the charges became public since Reynolds did not know when was the last time that scrips were destroyed (T. 571), and there was no testimony by Reynolds that the alleged practice of retaining only four or five months of newscrips was followed during the period that Roberts was at KMPC. Nor was Sigmon, who according to Reynolds' testimony, had the responsibility for destruction of scrips, called to testify. Accordingly, Reynolds' testimony does not in any way affect the finding, called for

by Roberts' and Lyon's testimony, that KMPC scripts going back at least to January 1, 1947 were destroyed by station personnel after the charges became public and before FCC investigators arrived at the station.

159. Mr. Reynolds stated that he was familiar with the details of handling the news scripts, but it would have been the responsibility of Mr. John Baird, Chief Announcer in the Program Department, checked by Mr. Sigmon, of determining who would take the scripts up to the storage room (T. 566). This testimony cannot be believed in view of the fact that the News Department was on a level with the Program Department and was not subordinate to it when Clete Roberts was at the station (Reynolds, T. 568) and John Baird's superior, Chester Renier, knew nothing of this responsibility. Baird, who appeared as a witness for applicants, contradicted Reynolds by denying that he had responsibility for news scripts during the period Clete Roberts was employed at KMPC (T. 14082 et seq.). Thus, Reynolds, his secretary, Miss Geraghty, and Baird are in conflict on the storage and retention of news scripts.

160. The destruction of news scripts by station personnel subsequent to publication of the charges and prior to arrival of Commission investigators is confirmed by the events and activities at KMPC following the publication of the charges against KMPC. John Baird brought the news

scripts downstairs and spent considerable time with Miss Geraghty going through them. Mr. Baird and Miss Geraghty went through the scripts allegedly to arrange them in chronological order in anticipation of the arrival of the Commission investigators. They worked about 20 to 30 hours on each box of scripts over a period of 10 days (T. 14334). Eddie Lyon on one occasion saw the news scripts scattered around in no apparent order in a room where Baird and Geraghty were working. When he entered they immediately stopped work until he left (T. 4254). A list of "missing scripts" was prepared (FCC Ex. 9) and later given to Commission investigators. Thus, they had ample opportunity to comb the scripts, do away with the scripts prior to September 29, 1947 and remove from scripts after that date any items or pages which showed the broadcast of items in accordance with Mr. Richards' instructions. The fact that many items which witnesses recalled had been broadcast, such as newspaper clippings and editorials as well as markings on news scripts showing Richards' instructions, could not be found by the witnesses at the time of the hearing gives added support to the finding that the station personnel tampered with parts of the scripts for the period after September 29, 1947.

161. There are numerous instances of items missing from news scripts. A script of Lyon for October 7, 1947

(T. 4130) on page 3 showed an arrow off to the right of the page indicating that a late bulletin had come in and was inserted in that part of the newscast, but it was not found (T. 4130). Kenneally's script for 8:00 P.M., October 29, 1947, was short about $1\frac{1}{2}$ minutes of material (T. 3179). An item was missing from Kenneally's script for December 18, 1947, at 8:00 P.M. on Charles Luckman. About two minutes of script are missing from Kenneally's newscast for December 31, 1947, at 8:00 P.M. Only about two minutes of script for a newscast of Kenneally for February 11, 1948, was in the file and eight minutes of script was missing from his February 3, 1948 script. Starrels testified that in going through the news scripts which he prepared he could not find any newspaper clippings though he recalled specifically three items and believed there were more (T. 3856). The witness did not find the word "rust" or the initials "GAR" on any of his scripts which he placed on scripts frequently (T. 3856-3857). Eddie Lyon stated there were a great many newspaper clippings in his newscasts but he could not find any of them in going through his scripts (T. 4413). Not a single newscaster testified that his news scripts were complete.

162. The fact that scripts were deliberately destroyed by KMPC personnel after the publication of the charges against KMPC is further evidenced by the actions of

Robert Reynolds, showing his consciousness of guilt with respect to these matters. (1) He instructed Baird to determine how many scripts were missing (T. 14335); (2) He directed the preparation and submitted to investigators a list of missing news scripts in April 1948 (FCC Ex. 9); and (3) He directed Baird to make an investigation to determine how long other stations kept their news scripts and had prepared a document which he gave to Commission investigators showing the practices of press wire services in retention of wire copy (FCC Ex. 12). This action obviously raises the inference, based on this and other proof relating to destruction of news scripts, that this was done to determine how many news scripts could be disposed of without arousing suspicion of their deliberate destruction. There was no reason, if his conscience was clear, why Reynolds should have thought of an advance defense against possible suspicion that the station had destroyed scripts.

2. Extent of Effectuation of Newscasting Policies

163. A long list of witnesses testified to the extent to which Mr. Richards' instructions, previously set forth, were carried out. In addition to those instructions which were shown to have been carried out elsewhere in those proposed findings where it was more convenient to place those facts, there were many other instances shown by the record in which Mr. Richards instructions were effectuated.

164. Harry Patterson, as ordered by Richards, selected items about Captain Rickenbacker and included them in newscasts. He also carried a two-minute story on the release of the motion picture having to do with the life of Rickenbacker (see supra, P. 62), many times over a period of several days (T. 2544-2545). Patterson also read editorials on newscasts without labeling them as such on the orders of Mr. Richards (T. 2553).

165. Tom Latimer was told from time to time by Charles Calvert that his news selections did not please Richards and he attempted to read the things that he was told to read by Richards because he was anxious to get started in radio in Hollywood (T. 2560). After Richards told Latimer not to mention the name of Henry Wallace, Latimer left Wallace's name out of newscasts and even after Wallace left his cabinet post Latimer continued to leave his name out of his newscasts (T. 2571). On instructions of Mr. Richards, Latimer also threw away a newscast which he had prepared and read a series of

newspaper articles, one of which voiced a stand by Robert Taft criticizing the Administration's policies (T. 2572). In keeping with Mr. Richards' instructions, the witness passed on items to other newscasters as directed by Mr. Richards (T. 2575).

166. Jack Slattery was told in many telephone conversations by Mr. Richards to read in his newscasts editorials or columns written by Westbrook Pegler without identifying the source. Slattery read those columns several times as instructed (T. 2643). However, he usually made certain deletions from the column in order to protect himself in the event of a suit by Pegler (T. 2648).

167. As instructed by Richards, Arch Hall read as part of his newscasts Westbrook Pegler's columns critical of President Roosevelt (T. 2916, 2954). On instructions from Richards, Hall searched the newspapers for other items unfavorable to President Roosevelt and members of his family and included that type of item in his newscasts (T. 2919-2920). Pursuant to Richards' orders Hall frequently clipped items from the newspapers unfavorable to Wallace, Ickes and Madame Perkins and read them in his newscasts. Hall followed Richards' instructions to use items from the newspaper concerning individuals with Jewish names and stressed the names (T. 2931). On at least one occasion Hall failed to read a newspaper item about President Roosevelt as directed by Richards but rewrote it before giving it on his broadcast. Richards called and said,

"Arch, why didn't you read that article exactly like I told you to read it?" (T. 2937); he further instructed Hall that he was to do exactly what he was told and follow the orders which he received (T. 2937-2938). On instructions from Richards, Hall located background material on Governor Warren and carefully watched the papers to add anything that he could which was favorable to Governor Warren for use in his newscasts (T. 2944).

168. Mr. Kenneally at the time he was employed at KMPC, was told by Cleve Roberts that Mr. Richards was very definite in his desire that news items broadcast on the station should reflect credit upon the Republican Party and that the Roosevelt family should only be treated in a derogatory way in newscasts (T. 3144). Kenneally stated that "in the preparation of my newscasts over KMPC I governed myself according to these directives, according to these suggestions that I had received; in such a way that my news broadcast should not prove to be embarrassing. In other words, I did not desire to in any way discredit the Democratic Party personally, or I had no desire to discredit the Roosevelt family personally; but as much as I could, in order to keep the seas smooth, I did not go into great length on any of the members of the Roosevelt family. And in most of my newscasts, when I was preparing them on political subjects, if there was news available about the Democrats and Republicans strictly on a question of

proportion, I would handle more Republican news than Democratic" (T. 3145). Mr. Kenneally used very little news on Henry Wallace because of his information that Richards did not like Henry Wallace (T. 3146).

169. Among Kenneally's newscasts of which scripts were currently available at KMPC was an item broadcast by Kenneally on December 30, 1947, the headline of which read as follows: "Carrol Reese calls Wallace move split between Moscow and Pendergast Wings of Democratic Party". This was a rewrite item prepared because Roberts or Lewin told him that Richards had sent word that the newscasters were to get on that particular subject and "ride it hard" (T. 3157).

170. In another newsprint broadcast by Kenneally at 8 p.m. on December 30, 1947, was an article prepared in accordance with these directives which was as follows: "Henry Wallace had the doubtful assist of a blessing by Harry Bridges tonight, and Senator Glen Taylor of Idaho is trying to make up his mind whether to join Wallace as a Vice-Presidential candidate on the new Third Party ticket. Comment ran the gamut today from Mrs. Eleanor Roosevelt's, 'Oh, dear!/' when she heard of Wallace's plans, to Carrol Reese, the GOP National Chairman's blast. Said Reese, 'The Moscow wing of the Democratic Party has now parted company from the Pendergast wing. The battle between the two factions will be interesting and possibly entertaining and the Nation will be the winner when both gangs lose.'" (T. 3160)

171. Kenneally's newsprint for 2:00 p.m., January 26, 1948, contained an item describing MacArthur as "hale and hearty". The story was used by Kenneally because MacArthur had reached his 68th birthday and he was told to do whatever he could to give the story prominence (T. 3164). Another newscast for that same day at 8:00 a.m. contained a leading item on General MacArthur's possible candidacy for President, a position the item would not have been given except for Richards' instructions (T. 3167).

172. In connection with the practice, ordered by Richards, of passing on from one newscaster to another news items which were to be given emphasis by repetition, was an item in Kenneally's newscast script of January 5, 1948, in which there was a reference to MacArthur and his possible candidacy for the Presidential nomination. The story was one prepared and passed on to him by Eddie Lyon. This was a practice at the station with respect to stories concerning General MacArthur or personalities which Mr. Richards told them to stress (T. 3170-3172).

173. In a script from Kenneally's newscast for January 2, 1948, there is a group of newspaper clippings. One item refers to law violations and the next concerns Charles Chaplin, Jr., who was arrested and jailed on an intoxication charge. There is a linking sentence between the two items and the item would not have been used but for Kenneally's knowledge that Richards specifically disliked Charles Chaplin and that every opportunity should be used to utilize a story against him (T. 3189-3190).

174. Pursuant to Richards' instructions to Roberts and Lewin which were passed on to members of the staff, a newscast was given on November 17, 1947 in which Kenneally, reporting a speech by President Truman dealt extensively with the criticism of the speech by quoting a large number of critical statements made by various Congressmen and other persons (T. 3194). There was comment in the news during the day favorable to the speech but Kenneally's newscast contained no favorable references (T. 3200).

175. At the time Walter Arnold was a newscaster at KMPC, a special bin was used and items unfavorable to Lend-Lease and favorable to the activity of the America First Committee were frequently placed in that bin to be used on the early morning newscast. Arnold used the material depending on the nature of the instructions issued by Richards written on the material (T. 3214).

176. Maurie Starrels did what Richards told him to do with respect to carrying stories on newscasts about Bugsey Siegel, David Lilienthal, Howard Hughes, Bennett Meyers, Henry Wallace, and others (T. 3388). On the occasion when Richards told Starrels to prepare a story on Edwin Pauley's cabinet aspirations being killed off by the grain speculation scandal, the witness wrote such a story and it was broadcast on KMPC on December 11, 1947 (T. 3391, 3555). On the occasion that

Richards told Starrels to listen to Fulton Lewis, Jr. and to take his line on the treatment of news concerning Howard Hughes from Fulton Lewis (supra, p. 34), Starrels obeyed the order and took his manner of treating the news concerning Howard Hughes from Lewis (T. 3395). On one occasion Richards instructed Starrels to place in a newscast thirty or thirty-five aliases for Allen Smiley which had a Jewish connotation and the witness followed these directions (T. 3408). On one occasion Richards told Starrels to make a big story out of a news item concerning a man named Casey, who had been in the official family of President Roosevelt and who was in some difficulty about his income tax. Starrels used the story as he was told, out of proportion to its news value (T. 3421). Mr. Richards' instructions that items were to be passed on from one newscaster to another or that they were to be used in every newscast of the day were usually reflected with a "must" notation at the top of the item. Items so noted averaged about one a week (T. 3424).

177. Vance Graham usually tried to follow Mr. Richards' instructions (T. 3780). He included in one of his newscasts an item, directed by Richards, to the effect that the "pin head", meaning Henry Wallace, had received the type of job that was worthy of him--the head of a pin manufacturing company (T. 3782). Pursuant to

the policy established by Mr. Richards, Graham played up stories concerning General MacArthur in his newscasts (T.3809).

178. Mr. Richards' instructions that Chester Renier should have Westbrook Pegler's columns (which were anti-Administration) included in newscasts were followed (T. 3953, 4003).

179. On many occasions Eddie Lyon followed out the instructions which Mr. Richards gave him to emphasize or delete news on the subjects previously discussed except that on many occasions he ignored them or toned them down (T. 4100). On the morning that Bugsey Siegel was killed, Richards called Eddie Lyon and asked him to read the story which he had prepared for his newscast. After Richards heard the story he told Lyon that he had not sufficiently emphasized the fact that Siegel was Jewish and that he should hammer and hammer the fact that Siegel was Jewish. Shortly thereafter, Richards told Lyon that he should point out in his newscast that Bugsey Siegel's funeral was Jewish. Lyon did so (T. 4105).

180. On one occasion, Miss Rowena Goraghty, secretary to Robert Reynolds, delivered to Lyon a telegram sent by Ed Ingle, Radio Director of the Republican National Committee, suggesting that notice be given a speech by James Farley in which Farley blamed the Yalta and Potsdam Conferences for the present state

of fear. After some difficulty, the witness found a newspaper item on the back pages of a three or four day old newspaper which reported the speech referred to and carried it in his newscast (T. 4114).

181. On another occasion Richards instructed Lyon to use an item from Reader's Digest which was in the nature of a digest of a book "Slave Labor in Soviet Russia". Lyon rewrote the item so that it only ran about three pages and inserted it as a news item in his newscast (T. 4117). He passed the item on to Maurie Starrels (T. 4118) for use in subsequent newscasts, who prepared an item on the article and included it in one of Frank Hemingway's newscrips (T. 3421). ^{1/}

182. A specific example of the way in which Lyon carried out Richards' instructions was an item concerning Henry Morgenthau's speculation in corn the previous year. It was pointed out to Lyon that Henry Morgenthau's name appeared, that he was of the Roosevelt regime and that Lyon should play up Morgenthau's name. The same applied to Edwin Pauley. This was done in a newscrip broadcast on January 13, 1948 over KMPC either in compliance with a direct instruction or because of station policy.

183. In a script of a newscast prepared and broadcast by Lyon on October 6, 1947, a specific illustration is provided of the manner of carrying out Richards' orders. This script

1/ Hemingway, a witness for applicants, could not recall this instance nor many others on direct examination; however, on cross-examination he admitted the truth of many of Richards' actions in accordance with a sworn statement given by him to Commission investigators (FCC Ex. 293).

contained an item describing the surrender of Eisler, the No. 1 Communist in America, and his wife, to Los Angeles immigration officers. Attached to the article was an item concerning the Un-American Activities Committee in Washington being told that Mrs. Eleanor Roosevelt helped the Eislers obtain U.S. visas. (It did not appear whether or not the item concerning Mrs. Roosevelt was current news. The sites of the stories were widely separated.) The newsprint showed that the following item was to be an item on the Overell murder trial. This item, however, was deleted and there was inserted a story quoting Joseph Martin, then Republican Speaker of the House of Representatives, on the subject of the Republican Party's anticipated victory in 1948 (T. 4126-4129).

184. Many of Lyon's newscasts contained the statement "a must on every newscast" and a number of newspaper clippings reflecting orders from Mr. Richards but none of these could be found by Lyon when he examined, at the hearing, the scripts of his newscasts currently available at the station (T. 4121).

185. David Anderson stated that instructions and items were presented to him by the newscasters on various subjects which he ignored except for one occasion when Cleto Roberts told him that he must broadcast a particular item (T. 4560). An offer of proof was made that this witness, who had been all through

the European campaign as a correspondent for the New York Times and other papers as well as a radio network, would testify as follows, concerning the conditions and atmosphere which pervaded the newsroom at KMPC:

"Well, I have worked in newsrooms in many parts of the world, in Sweden, in Germany, in Italy, in London, in Belgium, in Holland, and I have worked under both political and military censorship. I have worked under a so-called free radio. I have never in all my radio experience encountered an atmosphere as depressing, as morally depressing, as professionally depressing, as was the newsroom at KMPC.

"In Italy we had both the military and political censorship. We knew what we could and what we couldn't carry, theoretically. We always, as American correspondents, trying to do an effective job, overstepped our so-called limitations.

"In Berlin we had both political and military censorship, and the boys were at least given an opportunity to argue their case with the censors.

"In the KMPC newsroom there was little, if any, opportunity to argue your case. In other words, it was a take it or leave it basis, and the influence on the individuals concerned was, I believe, in direct proportion to their financial standing. In other words, I am not financially independent, but I considered myself to be an independent operator. I was not, I decided, going to be influenced or impressed by the directives coming down from Mr. Richards, inasmuch as I, as a newsman with a certain professional responsibility, certainly would not lend my name, at least, to an attempt to corrupt what I considered to be straight newscasting.

"I say that the influence which Mr. Richards had over these boys was perhaps in direct relation to their economic status, and if I may mention names, Maurie Starrels, for one, was one who was completely dependent upon his job as a newswriter for KMPC.

"Maurie Starrels had a wife and a baby, whatever their other circumstances may have been, and he was, to put it very mildly, hard up financially, and Mr. Richards, when he called, would speak quite often to Maurie Starrels and Maurie Starrels would inevitably make the effort, at least, to go as far as he himself felt he could go to meet the demands of Mr. Richards.

"George Lewin is a bit more of an independent operator, yet he too, felt compunction to do as Mr. Richards said.

"Clete Roberts is an entirely different person again, with a certain financial independence, and yet he, too, had a family to support and many were the times that Clete mentioned to me the fact that 'either it is do this or it is your job' and as far as Clete himself was concerned, and only once did Clete tell me it is 'you do this or it is your job' but I repeat again that I have never in my ten years experience as a foreign, as a war, and as a regular news correspondent encountered the depression, the moral depression, which I felt at KMPC." (T. 4554-4557)

186. In carrying out Richards' instructions to use the words "screw ball" and "tumble weed" in referring to Henry Wallace, Lewin handled it by writing in newscasts, "Henry Wallace, who is often referred to by Senator so and so as 'screw ball' or 'tumble weed'....." (T. 4587).

187. Pursuant to Richards' orders, (See Supra p. 40) Lewin prepared a special script for inclusion in newscasts in which Elliott Roosevelt's name was mentioned. In this script, Lewin marshalled a series of events in which Elliott Roosevelt had been pictured unfavorably in the news over a long period in the past, events which were entirely unrelated to the event in which Elliott Roosevelt's name currently appeared in the news. The special script recounted events of some years past relating to Elliott Roosevelt's borrowings of substantial amounts of money from the president of the A & P Tea Company under circumstances discreditable to Elliott and his father, the late President Roosevelt; an old story in the news some years past relating to the suggested use of Elliott Roosevelt's position of influence as son of the President and as an Army officer to obtain transportation of his dog "Blaze" on an Army plane which resulted in "bumping" servicemen from the plane; and the deletion of Elliott Roosevelt's name from the Social Register (FCC Ex. 238). This item was broadcast on a regular news program (T. 4727).

188. Lewin tried to avoid using news items about Howard Hughes, Henry Wallace, David Lilienthal, and other individuals whom Richards disliked unless he was given a specific order with respect to a particular item (T. 4743).

189. John Dehner believed that he could do nothing else but broadcast the items that he was ordered to use by Richards (T. 4772), though he did not do every single thing that Richards told him to do. Dehner would broadcast what Richards told him to carry unless the items were "too far beyond the pale", particularly in the case of Jewish people, because Dehner believed that he had no right to go so far as to be a party to race defamation (T. 4781). Dehner followed Richards' order to use newspaper items of an editorial nature and pass them "down the line to the rest of the boys" (T. 4783). However, at the end of the day these special items were returned to Dehner and some of them are included in FCC Exhibits 240 and 241, showing specific instances of the execution of Mr. Richards' instructions on newscasts at Station KMPC (T. 4789-4796). (See pages 75, 76 for examples of the items included as a result of such orders.)

190. Larry Thor believed that he was compelled to follow orders given to him by Richards concerning the content of his newscasts and he put the items on the air (T. 4934). Thor broadcast the items because it was his understanding that "if you did not do what Mr. Richards said you didn't work at KMPC" (T. 4935). In Thor's news script for

October 18, 1947, at 6:30 a.m. there was attached a rewrite item critical of Margaret Truman's concert in Pittsburgh. This item bore a typed notation at the top, "to be used on Saturday's newscasts.....Mr. Richards" (KMPC Exhibit 111). There is also in this newscast an item of wire copy on the same subject of Margaret Truman's concert in Pittsburgh. The language of the rewrite item was not on any of the wire services that morning (T. 4958). Mr. Thor did not recall where he got this item but presumed that he used it in his 6:00 a.m. newscast from the fact that it was attached to the script for that newscast when it was shown to him on the witness stand (T. 4956).

191. It is clear from the record that there had been some disarrangement of the newsscripts from their original condition which had resulted in the transfer of this item from the script of the last newscast given on October 18, 1947 to the script of Thor's newscast at 6:00 a.m. on October 18, 1947. Mr. E. Z. Dimitman, a journalist, had been employed by the applicants to make a study of the newsscripts of KMPC in 1948. He examined the available newsscripts at that time, including the scripts for October 18, 1947. When Mr. Dimitman examined the newsscripts in 1948, the item concerning Margaret Truman, bearing the notation "to be used on Saturday's newscasts...Mr. Richards" was found by him attached to the script of a newscast for midnight of Saturday, October 18, 1947 (T. 15265). Its presence in the last newscast of the day, therefore, clearly indicates

that, in conformity with the practice testified to by a number of newscasters, it had been used on prior newscasts on that day, that it had been passed on from newscast to newscast, pursuant to Richards' order contained in the notation at the top, and that it had ended up, as Dimitman found it in 1948, attached to the last newscast of the day, at 12 midnight. The KMPC program log for October 18, 1947, shows (T. 13163 et seq.) that the schedule of newscasts on that day was as follows:

6:00 a.m.	Thor
8:00 a.m.	Thor
5:00 p.m.	Ewing
6:00 p.m.	Ewing
8:00 p.m.	Turner
12:00 p.m.	Flynn

192. Turner, employed as a newscaster at KMPC at the time he testified as a witness for applicants, gave the 8:00 p.m. newscast on October 18, 1947 but did not recall using the item (T. 12997).

193. It must, therefore, be found that the item unfavorable to Margaret Truman was ordered to be used by Mr. Richards on more than one newscast on October 18, 1947, that it was actually used on the 12 midnight newscast and on other newscasts of that day previous to the midnight newscast, the precise times of which are not shown by the record.

194. The unfavorable nature of the rewrite item which Mr. Richards ordered to be emphasized by repetition is shown by a comparison of the rewrite item with the wire copy item

on the same subject which appeared in Thor's 6 a.m. news-cast. The wire copy item read as follows:

"It was like Chills and Fever for Miss Margaret Truman when she sang in her first full-length concern last night in Pittsburgh. The chills were supplied by the critics. Their comments on her performance ranged from a barbed characterization of 'Childish' to an encouragement to get more voice training. However, the President's 23-year-old daughter received a warm welcome from the paying guests at the opener of her present concert tour. The audience of four-thousand people which packed the concert hall applauded each of her 11 selections and called her before the curtain nine times to take a bow."

The rewrite item reads as follows:

"(To be used on Saturday's newscasts....Mr. Richards) In the music column, we note that Margaret Truman, taking nine curtain calls in her concert at Pittsburgh last nite, left the music critics cold. Said Donald Stein-first, critic for the Pittsburgh Post-Gazette:- 'It is a pleasant, sweet voice, but it lacks volume and maturity. She sings with clarity and a certain amount of precision, but leaves a great deal to be desired in musicality'. Ralph Lewando of the Pittsburgh Press commented:- 'Miss Truman has a likeable voice, but its training is very faulty. Although the voice has limitations, good training, intelligently applied, will help her realize her aspirations'. One other music critic was more brief in his comments. Fred Lissfelt, of the Pittsburgh-Sun-Telegraph - his opinion:- 'In one word, childish'."

195. It is to be noted that the reference to "nine curtain calls" in the rewrite item was submerged as a parenthetical clause in an opening sentence stating that Margaret Truman "left the music critics cold." The latter expression did not appear in the wire copy. It is also to be noted that the wire

copy item gave a fuller account of the warmth of the audience's reception of Miss Truman. The only reference to the audience's reception in the rewrite item was in paragraph referring to the "nine curtain calls." The rewrite item ended in the critical note: "Fred Lissfelt of Pittsburgh Sun-Telegraph - his opinion:-- 'In one word, childish.'" It is thus clear that the rewrite item ordered to be used by Richards on all newscasts placed deliberate emphasis on the comment unfavorable to Miss Truman, and that the technique of repetition was ordered to give further emphasis to the unfavorable comment.

196. In the script of Thor's newscast for October 20, 1947 at 12:30 P.M. there is a newspaper item concerning George Murphy and the Hollywood Republican Committee. There is a notation on the page to which this newspaper clipping is attached which was admittedly handwritten by Ralph Turner, a present newscaster at KMPC called as applicant's witness, who could not remember writing it (T. 13184-13185). The notation reads as follows: "a must on every newscast on 20th of October, 1947, Mr. Richards orders" (T. 4958). Norman Nesbitt at 8:00 a.m., Eddie Lyon at 10:00 a.m., also used items on this subject. Other newscasts for that day did not contain such an item but there is no testimony that they were complete (T. 13274 et seq.).^{1/} As broadcast the item read as follows:

"Actor George Murphy will head the Hollywood Republican Committee in its efforts to bring victory, both here and throughout the Nation, for the party in the 1948 elections. In taking the office of Committee President, Murphy, a Past President of the Screen Actors Guild, said, 'We believe that destiny can best be served by a Republican administration which can be depended upon to hold the line set up in the Constitution and Bill of Rights.'"

"For too long a time a vociferous minority has misled the public at large to believe the majority of Hollywood actors and actresses are either radicals, crackpots, or at least New Deal Democrats.'" (FCC Ex. 335)

197. Thor as well as other newscasters followed Richards' instructions to call General Bennett Meyers, "Benny", even though the script itself used the word "Bennett"

^{1/} It is entirely possible that in the newscasts where the item did not appear it was nevertheless used, as ordered, but it had been passed on to another newscaster. Hence its absence from the particular scripts.

(T. 4961-4964, 4139, 4143, 4973, 5294, 5436). Starroels was told by Lyon to refer to Major General Bennett Meyers as "Benny" which he did on one or two occasions, but for the most part he did not follow this instruction (T. 3531, 3532, 3591-3595). In many scripts, pursuant to Richards' orders, where the name "Bennett" appeared in wire copy, it was crossed out by the newscaster and the word "Benny" inserted in its place (T. 4961-4964, 4138, 4143, 4973, 5294, 5436).

198. A vivid illustration of the manner in which Mr. Richards' orders with respect to the treatment of Jews in newscasts were executed is shown by items appearing in a script of a newscast given by Ralph Turner at 12 midnight, November 23, 1947 (FCC Exhibit 299). The items in this newscast were not prepared by Mr. Turner but were prepared by Larry Thor much earlier in the day (T. 4971 et seq.). Mr. Richards called Thor and told him to use three items, two of which were taken from a newspaper, and the third was a wire copy item which was partially rewritten. Richards told Thor to rewrite the three items and specified the exact order in which the items were to be read in the newscasts for that day. The first item, taken from a newspaper, related to certain difficulties that Allen Smiley, an alleged gangster formerly associated with Bugsey Siegel, was having with immigration authorities in Los Angeles. Richards told Thor to point out that Smiley was Jewish. The second item, which

was partially wire copy and partially rewritten, was one dealing with various difficulties, including income tax evasion charges, in which General Bennett Meyers was involved in Washington. Richards told Thor to convey the idea that Meyers was Jewish by referring to him as "Benny". The third item, taken from a newspaper, recited a report from an unidentified source, that the "Stern Gang", a Jewish organization in the Holy Land, was communistic. After Thor had prepared the stories as directed, he read the script of these items to Richards for his approval. Thor used them on his newscast and as ordered by Richards, passed them on for use in later newscasts that day (T. 4973-4975).

Turner broadcast these items (T. 13001) but was unable to explain how he got them (T. 13005).

199. The techniques of news slanting illustrated by the foregoing are ingenious. The intended purpose was to discredit Jews by the method of identification or association of criminal and communistic activities with persons of the Jewish faith, and by deliberately making express or implied reference to the faith of the persons involved. The items, given in sequence, all deal with Jews; all connect Jews with criminal activities; and one also connects Jews with communism. Whatever their actual effect on listeners might have been is speculative, and not material in any event. The effect obviously intended by Mr. Richards has greater significance and materiality.

That intended effect was that by intermixing the subjects of Jews, criminal activities and communism, arising from three separate and distinct news items, and juxtaposing the separate items in close proximity with each other, feelings discreditable to Jews would be aroused from the very existence of such a large amount of news in a single day in which Jews are generally involved in criminal or communistic activities whether they be located in California, or thousands of miles away in Washington or many more thousands of miles away in Asia.

200. Were no element of deliberateness present in the construction and composition of this newscast, no question of news slanting would be raised by the newscast itself. But deliberateness was present in (a) the selection of the items concerning Jews from sources which do not normally constitute the source of items for newscasts; (b) the sequential juxtaposition of the items in the newscasts; (c) the introduction into two of the items of an express or implied reference to the **Jewish faith** of the individuals involved; (d) the express order for repetition of the items in the newscasts for the entire day.

201. In the very same newscast, there appears another item which, notwithstanding the testimony of Turner, applicants' witness, must be found to be in implementation of instructions from Richards. Richards directed the playing down of news items which would give aid and comfort to the Jews (T. 3392). In Turner's newscast at 12 midnight, November 23, 1947, there appeared the following wire copy item:

"The defendants are the Nazis who killed and tortured millions of Jews at the famous concentration camp at Auschwitz."

Turner admitted that he crossed out the word "Jews" in this item (as was shown on the script in his own handwriting) and substituted the word "inmates." His explanation for the change was his personal belief that the wire story was inaccurate in implying that all the prisoners at Auschwitz were Jews. This explanation must be found to be too flimsy to be acceptable, in the light of the nature of the other items in that newscast relating to Jews, and in the light of Mr. Richards' instructions on this subject. It must be found that this change by Turner was in pursuance of those instructions for the purpose of avoiding sympathetic reference to Jews. It is obvious that Turner, who had no personal knowledge of the facts, manufactured the explanation which he gave on the witness stand in order to avoid admitting that the change was made to eliminate a reference to the sufferings of Jews under Nazi oppression.

E. POLICIES AS REFLECTED IN INSTRUCTIONS
RELATING TO PROGRAMS OTHER THAN NEWS
PROGRAMS.

202. The record contains a great mass of uncontradicted evidence showing that by various instructions, directives and orders to officials and employees of the three stations Mr. Richards laid down the policy that the programming of the stations was to be used in every way possible to assure the defeat of the Democratic Administration, particularly in the 1944 national elections.^{1/} These instructions related not merely to the newscasts of the stations, but to other types of programs which under Mr. Richards' orders, incorporated commentary of a controversial nature specifically designed to place the Administration in disfavor, without providing similar opportunity for expression of the opposing viewpoint.

1. The Victory F.O.B. Program

203. The foregoing policy was sought to be effectuated by Mr. Richards in connection with the 1944 national elections in a program originated by Mr. Richards (T.16914 16921) and which was prepared by WJR employees and carried on the network of the Columbia Broadcasting System, ^{including} (WGAR) and rebroadcast by transcription on Station KMPC at a cost to WJR of between \$4,000 and \$5,000 a week (T. 16,966).

^{1/} The 1948 national elections and the political campaign preceding those elections occurred several months after the charges which led to these proceedings were made public.

The program was a sustaining program with a format consisting of patriotic music, continuity dramatizing historical incidents in American history, and designed to extoll particularly the achievements of American business in the war effort (FCC Exbs. 127-168). A large number of the F.O.B. programs included talks by prominent persons in various walks of life. It was by subtle attacks on the Democratic Administration in the dramatic sequences of this program and by the choice of speakers, that pursuant to Mr. Richards' directives the program was to be used to assist in the defeat of the Democratic Administration and otherwise to espouse Mr. Richards' side of controversial issues. More specifically, the program was to be used to expound the theme that the Democratic Administration was the enemy of free enterprise; that under that Administration our basic Constitutional structure and the constitutional rights and liberties of individuals, and particularly freedom of speech were in jeopardy; that the Democratic Administration was Communistic and totalitarian in its measures and tendencies; that the President was dictatorial; and that the Administration was shot through with red tape and bureaucracy and guilty of great wastes of taxpayers' funds.

204. That these were the ends sought to be achieved by Mr. Richards by this program is amply proven by

correspondence with Leo Fitzpatrick, the Vice President and General Manager of WJR ^{1/} and by the scripts of the F.O.B. programs as broadcast by the three stations.

205. In these letters, Mr. Richards indicated a firm determination to use his radio facilities for partisan political purposes. Fitzpatrick understood that Richards wanted the program F.O.B. to play an important part in the 1944 election (T. 16,742). Thus, in a letter written to Fitzpatrick in 1943 (FCC Ex. 39) after referring to the F.O.B. program, Richards said:

"This is WJR's chance to play its part in helping to eliminate the bureaucrats who would communize our country thereby causing a revolution."

In a letter to Fitzpatrick, written in 1943, Mr. Richards said:

"Note those Englishmen want Roosevelt and Wallace--of course they do, who wouldn't. They

^{1/} Reference will be made in this Section to several items of correspondence to Mr. Richards from Mr. Fitzpatrick which were excluded by the Examiner. The General Counsel believes that the Examiner's ruling excluding this correspondence was erroneous. It was clearly admissible to show the effectiveness of Mr. Richards' instructions, particularly in view of the contention by applicants that these communications were really expressions by Mr. Richards of personal beliefs and were so regarded by his officers and employees. Fitzpatrick's letters to Richards show that Richards' communications were definitely regarded by Fitzpatrick as instructions and orders and not as mere expressions of personal beliefs. Since we were denied the opportunity of inquiring into Mr. Richards' intentions with respect to these letters by questioning him on the witness stand, it is particularly material that the replies by Fitzpatrick at that time to Mr. Richards' letters be considered in evidence.

give everything away--This should be the tip off to our people to turn them out in 1944 before they give the whole works away--Give to Miss Elliott¹ for F.O.B. interest." (FCC Ex. 43)

As the year 1944 approached, Richards wrote Fitzpatrick specifically to get F.O.B. going on the objective^{of} ousting of the Administration. Thus, in a letter to Fitzpatrick on December 28, 1943 he wrote:

"We must all pull up our belts and really bear down in 1944--work and fight like you never did before, Fitz...This New Deal must be ousted or we all can call it a day--We are getting set to go to town out here--Get F.O.B. going great guns and spend money promoting the program." (FCC Ex. 67)

In a letter dated January 14, 1944 to Miss Elliott and Fitzpatrick Richards told Miss Elliott and Fitzpatrick:

"Keep plugging and trying new ideas and the best speakers. I don't think you will have any trouble in getting anyone you want. Save Rick (Capt. Eddie Rickenbacker) and Hoover (J. Edgar Hoover) for Sept or have them twice. We must have four of the fightingest programs in Sept ; we ever put on KMPC and publicized in every way possible..Atherton is hot now on acct. of publicity." (FCC Ex. 581)

Following this letter (January 19, 1944) Richards wrote Fitzpatrick that he should be in close touch with Atherton, the new national commander of the American Legion, and cultivate the local Legionnaires. In

¹ Miss Geraldine Elliott was the writer for the program Victory F.O.B. She was not called by applicants as a witness in an attempt to refute any of these facts.

addition, Mr. Richards stated:

"With Victory F.O.B. going we can do our part in backing up our fighting men who certainly will not come back and let this New Deal regiment and communize them."

"Let's play our part boldly. We cannot pussy-foot along any longer. To hell with the FCC. Of course we have to live up to their rules, but there are no rules that say we can't act American and boost our own country and our own people and our own Constitution so I believe one of our best approaches is the Am Legion" (FCC Ex. 47)

206. The scripts of the F.O.B. program beginning as early as January 22, 1944 sought, by subtle techniques, to conceal an attack on the Administration behind a veil of patriotism. In the script of the program for that day (FCC Ex. 129) a call was made by the narrator for victory in 1944 and a return of the men in service to a new prosperity. An appeal was made to be on guard against "the sinister influences within...dangerous influences that would destroy our individual freedom, our traditional independence, and our American way of thought." This was followed by a talk by Mr. Merle Thorpe, editor of Nation's Business in which Mr. Thorpe stated:

"Leadership to direct this work will call for men of spirit and capacity, for they alone sustain the daily pressure of progress."

"This leadership we shall have because America is America; because it takes more than a decade of depression and discouragement to wean a great people away from a century of freedom, from a philosophy that progress will come in the future, as it has in the past, from the bottom up and

not from a super-imposed authority from the top down. And we must not forget this: Freedom is not free...Wisdom and experience from our past call for a return again to the American plan whereby the workers, managers and dollars will cooperate fully, without unnecessary restrictions."

Mr. Richards heard this program and considered it excellent.

He believed it to be achieving the idea he wanted to put

across for in a letter to Fitzpatrick and Miss Elliott

about the program (FCC Ex. 48) written on January 22, 1944

he^{1/} said:

* * * *

"Our program backed up Thorpe in fine shape and vice ver Oh, if we could only get 100 more independent stations to take our program we would build a real audience across the nation. Fitz, I don't care much about southern stations they are dyed in the wool and won't change, but all borderline states I'm very anxious to get good coverage."

The reference to the "Southern Stations" being "dyed-in-the-wool" indicated Richards' feeling that he could not hope to swerve votes from the traditionally Democratic South to Republican candidates and accordingly he had no interest in having the F.O.B. program carried on "Southern Stations".

207. In keeping with the previous suggestions of Richards (FCC Ex. 581) Warren H. Atherton, national commander of the American Legion, appeared on the F.O.B. program for January 29, 1944 (FCC Ex. 130). In the course of this

^{1/} Mr. Richards was able to hear the F.O.B. program in Los Angeles on Station KNX an outlet of the Columbia Broadcasting System (FCC Ex. 48).

program the dialogue quoted from Tom Payne:

"Oh ye that love democracy guard it well---for there are powers that would destroy it. Know ye that centralized control of all governmental functions in a bureaucracy founded upon administrative law, is contrary to the democracy in which all our rights are rooted; the democracy from which spring all our hopes, not only for a larger freedom but to keep the unnumbered freedoms which we as a nation have enjoyed for all our years of independence."

In commenting on this program, Mr. Richards, apparently feeling that Miss Elliott was not being subtle enough, wrote to Mr. Fitzpatrick:

"Tell Miss Elliott not to write as I have--she can get a lot of ideas from them--" (FCC Ex. 583)

On the F.O.B. program for Saturday, February 5, 1944, (FCC Ex. 131) Mr. Frederick C. Crawford, president of Thompson Products, was the speaker. Prior to his talk the narrator stated the following:

"They have the right to know...The right to question. The right to work! What shall the choice be? Shall we extinguish free enterprise? Shall the State be the employer? The people under its domination? Everyone works in Japan--on a national diet of fish and rice. In Hitler's Germany there are no bread lines...only concentration camps, military barracks..... What will you have, America? What will you have for our boys when they return... after we've won the fight for freedom? Shall it be the ancient bondage of bureaucracy, a static form of security? Or will it be the freedom of opportunity our way of life presents."

Mr. Crawford in his speech stated:

"Free enterprise, whether in its economic or political or religious expression, permits of legitimate regulation for the common good, so

long as it is imposed by the will of a sovereign people. Regulation is necessary and desirable until it becomes excessive and unwarranted. It is then no longer regulation but bureaucratic control and insufferable domination. This idea that we should look to government to tell us what to do, must go. Americans would rather make their own decisions and their own mistakes. This will be equally true of our returning soldiers. They don't want a paternalistic government to solve their problems and carry their burdens for them."

Following this program Mr. Richards had a discussion with Mr. Crawford about his talk. He then wrote to Mr. Fitzpatrick that Mr. Crawford was complimentary about F.O.B. In this letter (FCC Ex. 50, dated February 25, 1944) Mr. Richards stated that Mr. Crawford said:

"He says it would have been a help had he known more about the program beforehand as he would have layed it on more heavy. He also agrees everybody has got to dig in and stop pulling punches on these misfits and is 100% sold on the fact that the Jews absolutely control the adm."

Mr. Richards further wrote:

"The New Deal is dead Fitz, & now it's up to us all to see that they are buried Nov. 7th. It's our patriotic duty.

(FCC Ex. 51)

And Mr. Richards wrote to Fitzpatrick in an undated letter:

"The gloves must be removed war or no war & the truth must be told of their schemes to communize our country. They must & will be beaten."

208. The F.O.B. program, February 12, 1944 (FCC Ex. 132)

contains the following statement:

"Let us never surrender our heritage. Let us keep the political power we possess; maintain a free society, uphold free enterprise; stamp out the smoldering fires of bureaucracy....that when our boys return there may be a future for them and their country offering the same rights that Lincoln had with no ceiling on the opportunity for them to become President, or to make a million."

209. In the F.O.B. program for February 19, 1944 (FCC Ex. 133), the theme for the attack on the Administration was centered upon a quotation from George Washington:

"It is important that the habits of thinking in a free country, should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all departments in one, and thus to create whatever the form of government, a real despotism."

Further on in this program, the narrator speaking of the achievements of American industry in war production stated:

"It was possible only because of our system of free competitive enterprise. Choke it off by the red tape of Bureaucracy, and you kill the American way of life. So let us all crusade for the principles of free competitive enterprise that they may be the guide for all men who love freedom, who are willing to accept its responsibility and who want to share in its opportunities."

The theme in the quotation from Washington was tied together into a note attacking the Administration in the speech of Howard W. Jackson, President of Riall-Jackson Insurance Company of Baltimore, Maryland, the speaker on this program, who stated:

"This program is designed to awaken the American People to their responsibility of citizenship and for the preservation of free enterprise and the American way of life.

"That individual freedom needs defense is a sad commentary on the trend of the times. For over one hundred fifty years free enterprise has justified its existence and it is indeed ironical that we should out of necessity have to defend the American system of free enterprise at home when in all its strength and glory it is defending us against destruction abroad.

"What has happened? Who has attacked it? The man in the street has not. The threat has come not from the mass of the people but from the very seat of government. This is true, not only in our own threatened democracy, but in other democracies as well. To be specific--British industry has just served notice on the political planners that it proposes to demand full freedom for private enterprise when the need for war time control has passed.

"We are confused by contradictory and smearing statements by government officials--plans for Federal control of transportation--plans to gather the educational system under the Federal wing--plans to completely socialize medicine--plans for security from cradle to the grave--plans to dictate to and control other business enterprises that could be mentioned.

"We are drifting away from Constitutional Government by laws to Unconstitutional Government by men. We are destroying the foundations of liberty and laying the foundations for totalitarianism."

In the FOB script for February 26, 1944 (FCC Exhibit 134) the narrator stated:

"What will you have, Mr. and Mrs. America--free government spending, many government employees, high taxes, inflationary prices, government control, or...low government spending, a minimum number of government employees, low taxes, level prices and free enterprise?"

The FOB scripts for March 4, 1944 (F.C.C. Ex. 135) contained the following continuity:

"Narrator: Opportunity! The right to earn your own bread as well as eat it--That's the American way. It has always been the American way...but today thousands of thinking citizens are in doubt."

"Man 1: It looks to me as if America as the land of opportunity is being pushed off the map."

"Man: Bureaucracy and red tape are strangling American individuality."

"Man 1: Well, the Bureaucracies provide jobs!"

"Man: I'll say they provide jobs. One out of every 41 of national population is on the civil payroll of the federal government!"

"Man 1: That many!"

"Man: That many is right. And it is what it means that hurts...Red tape, more red tape, proclamations, directives, executive orders, department overlapping departments, which overlap department spending billions of dollars of public funds without purpose, without audit. That's the way that sends us pell-mell in the other direction...away from the American way of life."

In this same script the narrator stated:

"Will there be the right of opportunity for our citizens, tomorrow? Will our fighting men, when they return from their courageous battle for American liberties, find them lost in a planned state Socialism? It is up to you, Mr. and Mrs. America. Remember, there is only one direction in which government can expand--into your activities. Free enterprise, our way of life, means increased production, more opportunities for individual advancement, and spells stabilization...while subsidies and bureaucracy lead only to the financial quagmire of debt, inflation, and bankruptcy. 'Free people, remember this maxim: We may acquire liberty, but it is never recovered if it is once lost.'"

210. Mr. Richards would delineate subtle techniques to be introduced into the continuity of the F.O.B. program as a means of casting discredit and suspicion on President Roosevelt and the New Deal Administration. Thus in a letter to Fitzpatrick, he stated:

"I started to send this note to Miss Elliott but believe it should go to you and Bill Alfs ^{1/} and you instruct her on this--I don't want a slur on the Pres. in the sign-off but do want to make the point indirectly that he is trying to grab like a dictator other jobs that are not supposed to be his."

"Here is a point that the Republicans should make a big issue out of (Communism) and we can set the stage--see Gene Carr or call him on the phone and let's bear down on this just before the Republicans come out on same tack." (FCC Ex. 57)

211. Miss Elliott did prepare a script which was submitted to Mr. Alfs. On July 26, 1944, Mr. Alfs wrote to Miss Elliott as follows:

"The script for the 'Victory F.O.B.' program of July 29 has just arrived.

"There is ample ground for criticism of this material at any time. The not too subtle comparison between Hitler and Roosevelt is especially dangerous now.

"Without attempting to point out all of the language which is objectionable, it is sufficient to call attention to the following:

"Use of the phrase 'the indispensable man'. This phrase is recognized in this country as descriptive of Franklin D. Roosevelt.

"Roosevelt, like Hitler, came into power when the people had suffered hard times and when they had stood in bread lines. While our money was still good, the banks were closed and immediately after Roosevelt took office things were changed. You could substitute the word 'Roosevelt' for 'Hitler' in the second paragraph of your script and with the exception of the boots and

^{1/} Bill Alfs was the attorney for WJR.

uniforms everything said there would apply with equal force to the situation which obtained in this country immediately after the first Roosevelt inauguration. ---

"The remainder of the material, taken in connection with what I have specifically pointed out, only enhances the comparison. We must be aware that such a comparison is in bad taste in time of war and is odious to millions of our citizens.

"I do not believe there is any use in trying to revise this script. I think it should be completely rewritten." (FCC Ex. 626)

212. Another technique urged by Richards was the inclusion in the F.O.B. program of "plugs" for a book, written by Henry M. Wriston, President of Brown University, which was critical of the Administration. Thus in a letter to Fitzpatrick, he wrote:

"Show Miss Elliott how to work in plugs for everyone to read 'Challenge to Freedom'. If Winchell can make a lousy book packed with half truths & lies like 'Under Cover' a best seller we through radio should be able to influence a great number of Americans to read a book by a man of character full of honest truths about bureaucrats. She could quote from statement on outside cover about the double talk and say 'Read Challenge to Freedom' by Dr. Wriston." (FCC Ex. 55)

In another letter to Fitzpatrick, Mr. Richards urged that Wriston be obtained as a speaker on F.O.B. (FCC Ex. 54).

Wriston was the speaker on the F.O.B. program for March 18, 1944 (FCC Ex. 137). In this program it was stated:

Narrator: "During the last 12 years we have gone through times that try men's souls and stretch their nerves to the breaking point. We have gone through a period in which industry was discredited.

"Man: We've been economically sick people...We've swallowed enough panaceas and nostrums to kill any other nation."

Narrator: But despite it America has survived!!***"

213. Mr. Richards directed the use and emphasis of appellations which he considered uncomplimentary, in references to the Democratic Administration. In a letter to Fitzpatrick, he said:

"Please tell Miss Elliott fine work. Don't forget to use the word Bureaucrat often. They can't take that." (FCC Ex. 75)

214. Following the pattern in these letters to emphasize the word bureaucrat, it can be observed that Miss Elliott took the instructions seriously for throughout the series of FOB programs there were constant attacks on bureaucrats and bureaucratic groups as a means of attacking the Democratic Administration. In the FOB script for April 22, 1944 (FCC Ex. 142) the narrator made the following statement:

"We at home must do all in our power to make sure that the individual freedom of Americans is not overpowered. As did Woodrow Wilson, we must champion the right of every man to have a voice in his own government rather than be dictated to by bureaucratic groups which never have and never will speak for him."

215. In the script for FOB of May 20, the narrator stated:

"American liberty is the product of the soil and genius of the open spaces and the open minds of freedom loving people who made a covenant with God to release themselves body and soul from the ancient bondages of bureaucracy! We fight to maintain that

freedom now...and only the indifference and the apathy of the American people can destroy it. The crusade for freedom of the individual will continue as long as there prevails the pursuit of human happiness, the desire for opportunity...the right of man to speak for himself, and to rule his life and nation." (FCC Ex. 146)

216. In the script for June 10, 1944 (FCC Ex. 149) an attack on the Administration was disguised in an advertisement of war bonds. In this script is found the following statement by the narrator:

"American men and women working for victory.... we urge you in your own self-interest to buy war bonds. Hold them until they mature. They are your insurance for the future. Give your country time and under the right kind of administration, it will pay your bonds without loss to insure opportunity for our boys when they return."

"Voice 1: Stop wild and needless spending."

"Narrator: Business cannot create wealth by going into debt."

217. The F.O.B. script of June 24, 1944 (FCC Ex. 151) furnishes still another example of the subtle techniques utilized on this program. In this script, there was a clear suggestion that under the Democratic Administration constitutional limits on governmental powers and majority rule had been cast aside. The narrator on this program stated:

"A government that protects is a limited government.....a man-made force controlled by man * * * Is it not the time to see to it that the powers of government are limited, to see to it that the majority rule?"

218. In the selection of speakers for the F.O.B. program, Mr. Richards insisted upon ~~inviting~~ those who would speak in accordance with his personal views (T. 16779; 16914). His attitude on this score was reflected in the following letter to Fitzpatrick in 1943:

"Let's line up Gen. Campbell, Waring, Rickenbacker, Knudsen, Eric Johnston ¹/and many other fighters who believe in our way of life on F.O.B....Keep slugging Fitz, we can't weaken now." (FCC Ex. 576)

219. The record shows innumerable instances in which Richards dictated who should be invited to speak on F.O.B. His correspondence with Fitzpatrick shows the extent of his insistence on the kind of speakers who expressed a point of view critical of the policies of the Democratic Administration. Thus, on January 31, 1944, he wrote Fitzpatrick:

"I believe we should have Dewey, Warren, Bricker, all three on F.O.B. not on consecutive Saturdays however." (FCC Ex. 49)

220. At that time, these gentlemen were the Republican governors of the State of New York, California, and Ohio, and were discussed as potential candidates for the Republican Presidential nomination.

221. Fitzpatrick's reply (FCC Ex. 69, excluded) stated that he had "tried to stay away from anyone in political office." However, he stated that he would "be very glad to follow your instructions on these three men", but suggested that "we should put some Democrats on the program....."

¹/ Johnston, President of the U.S. Chamber of Commerce, was a speaker on the F.O.B. program on January 8, 1944 (FCC Ex. 127).

222. Governor Bricker appeared as the speaker on the F.O.B. program on April 1, 1944 (FCC Ex. 139) which related to "socialized medicine." In this program, the following dialogue appeared:

"Narrator: Yes, there are those who believe that government control is the only way to guarantee all persons medical care. But many thinking Americans outside of the profession of medicine are fearful of such a measure..."

"Voice 1: I'm afraid of it for it seems to me it takes away ability and accomplishment and substitutes political considerations."

"Voice 2: It seems to me it digs the grave of American self-reliance and initiative."

"Voice 4: I don't believe that absolute power over the lives and liberty and property of free men should exist in a Republic."

"Narrator: And so the argument wages pro and con. Those who are for the American way of life as expressed in our Constitution and our Bill of Rights..and those who would take over all the activities of the people as is done in Germany and Russia."

223. In his talk on this program, Governor Bricker stated in part:

"First, we must re-establish faith in our American system of private enterprise. We must put an end to governmental management of our

national life. Regulation will be necessary to prevent abuses. But there is a vast difference between regulation and regimentation. Only when governmental domination is destroyed shall we have high employment. Jobs come from a constantly expanding agricultural and industrial system. For a decade our system has been in chains. Unshackle it, and we shall find it equal to our needs. I urge a return to opportunity, to venture capital, to full peacetime production. This means that government must govern--not manage."

224. In a letter to Fitzpatrick following this program, (FCC Ex. 75) Mr. Richards expressed his satisfaction:

"I think FOB was best of all Sat. Bricker got in there and backed up our script on the Mayos."

225. After directing in the same letter that 50 or more recordings of the program be sent to medical societies and various doctors, Mr. Richards stated:

"We are probably the first station to really champion the medical profession cause."

226. And in another letter written to Fitzpatrick a few days later (FCC Ex. 59), Mr. Richards stated with respect to Bricker:

"He is going overboard on free enterprise, I believe, same as I am afraid we do on FOB ... no matter who is nominated we must go for him 100% and help from our radio and all we can."

227. Governor Earl Warren was the speaker on the F.O.B. program for April 29, 1944. (FCC Ex. 143) In connection with Governor Warren, Mr. Richards in a letter to Fitzpatrick written in 1943 (FCC Ex. 45) said:

"As you know, we went to bat for him in a big way and he is very appreciative."

In another letter, (FCC Ex. 65, excluded) from Fitzpatrick to Richards, dated September 10, 1943, it was stated:

"Warren said he had a very interesting visit with both you and Niles, and said that you were very gracious to him during the campaign, and had turned over everything that you possibly could to get him elected."

228. The record shows that many unsuccessful efforts were made by Fitzpatrick, upon Mr. Richards vigorous insistence, to obtain Dewey as a speaker on F.O.B. (FCC Ex. 54). Efforts were made, however, to exploit Dewey's candidacy on the F.O.B. program. Thus, in a letter from Fitzpatrick to Richards written on March 1, 1944, Fitzpatrick stated:

"...And Walter Fuller, president of the Saturday Evening Post the week after that...."

The Saturday Evening Post is coming out March 11 with a definite and positive statement as being opposed to the Fourth Term and the bureaucratic system of government. Seems to me this will be the opportune time to put on Fuller, to follow through on the same line of talk, which is just what we have been preaching." (FCC Ex. 71 excluded)

229. While the political viewpoint of the speakers he selected was the important criterion entering into their selection, the religious affiliation of the speakers was also a predominant consideration specified by

Mr. Richards. Thus, in a letter to Fitzpatrick in 1944, Mr. Richards stated:

"I see no reason why Rev. Sheen as well as a fine Protestant minister who believes as Fr. Sheen does should not be invited on F.O.B. No Jews." (FCC Ex. 52)

230. The partisan flavor of the F.O.B. program during the period preceding the national elections became a matter of concern to Fitzpatrick and he made efforts to persuade Mr. Richards of the necessity for providing at least a semblance of balance.

231. In February, 1944 a copy of the Columbia Broadcasting System's policies on the handling of controversial talks was sent to Mr. Richards both by Eugene Carr (FCC Ex. 70, excluded) and by Leo Fitzpatrick (FCC Ex. No. 118, excluded).

232. Reference has been made to a letter (FCC Ex. 69, excluded) in which Fitzpatrick suggested that Democratic speakers be invited on F.O.B. to offset criticism. In a letter written on April 5, 1944 (FCC Ex. 199, excluded), Fitzpatrick expressed his concern in grave language:

"In thinking this over, my confusion of thought may be due to the anxiety that I feel, as explained to you over the telephone the other day, relative to the tenor of our 'Victory F.O.B.' programs, in every one of which there has been a complete and thorough anti-New Deal quality. As I told you over the phone, I am jittery and I am leaving for Washington the first of the week in order to line up Senator George or Byrd, or some other speaker, who will at least indicate that we are striving to be impartial in our presentation of 'F.O.B.'."

233. Fitzpatrick also pointed out these facts to Richards over the telephone (T. 16,755). On occasion Fitzpatrick would argue heatedly with Richards that his use of the Station's facilities in a partisan manner was wrong. Richards' position was: "This is my station and I will do what I want to with it"(T. 16,736). At times, Fitzpatrick found it necessary to enlist the assistance of the Station's legal counsel in order to convince Richards he was wrong.

234. Mr. Richards' did not, as a station owner, regard himself bound to afford expression on his stations of points of view opposite to his own because he regarded the viewpoints advocated by him as advancing the cause of "Americanism", ^{1/} which to him was not controversial.

1/ The term "Americanism" had a peculiar meaning for Mr. Richards as shown by his discussion with Arch Shawd one of his employees at WJR which was reflected in a memorandum which Shawd wrote following the discussion on October 1, 1947. (FCC Ex. 563):

* * * *

"Reference Americanism:

1. Fight for a new Administration in Washington in 1948..first, last and all the time.
2. In order to achieve our goal we must have a new President etc.
3. This is our goal and we will never stop until we can proudly say this."

Mr. Fitzpatrick said the philosophy expressed by this memorandum was consistent with Richards' beliefs at the time he was manager of the station (T. 16,782). It should also be noted that Mr. Richards' patriotism did not prevent him from securing a prescription for "steaks and chops" during meat rationing who admitted that it may be true that he stretched his medical conscience to give Richards such a prescription (FCC Ex. 196, T. 1667, 1670).

Thus, he advised Fitzpatrick:

"But remember it is always time in and out
of Season in election years to talk Americanism."

And after question had been raised by the Columbia
Broadcasting System with respect to the controversial quality
of the F.O.B. program, Richards wrote:

"Remember that Americanism is not controversial
and I see no reason why Columbia or the FCC can take
any objection to our trying to sell America back
to Americans.

"I keep repeating, Fitz, that the lines are drawn--
it's either Americanism or Communism, and I don't
believe 10% of our people realize how serious and
disastrous it would be for us to maintain one man
rule here under the domination of Communists,
radicals, and CIO unionneers.....As I see it this
can help set the stage for the points Dewey will
have to make in September or October.....These
bureaucrats are stopping at nothing and, by the way,
I don't hear that name used anymore. Let's not
forget the words bureaucracy, new dealers, and
Communism, as well as Fascism, Nazism, and
dictatorship." (FCC Ex. 63)

235. Mr. Richards was persistent in his efforts to inject
a partisan flavor in the program over the objections of
Fitzpatrick and CBS. On February 11, 1944, Fitzpatrick
advised Richards that CBS had asked to see the scripts on
the F.O.B. program (FCC Ex. 198, excluded). CBS frequently
returned scripts for F.O.B. with a demand for their revision
(T. 16,746). The scripts quoted herein themselves show the
extent to which the efforts made to keep out of them the
matters ordered by Mr. Richards were unsuccessful.
Fitzpatrick finally gave up in his efforts and "passed the
buck" to the Columbia Broadcasting System (T. 16,739).

236. When a new version of the F.O.B. program under the name "Motor City Melodies" was resumed in 1946, the following correspondence ensued between Fitzpatrick and Richards upon the occasion of the receipt of a letter from CBS with respect to the program. Fitzpatrick wrote:

* * * *

"You can see by the enclosed letter that they were prepared for us on an hour's 'F.O.B.' program, and that these were the rules and regulations that they were going to lay down for us. We would certainly have a difficult job in surmounting them if we tried to conduct it the way we did all our other 'F.O.B.' series heretofore. They eliminate dialogue, controversial issues, speakers and everything else practically, and just insist on music only. I thought you would enjoy reading same, because you can see the attitude that they are going to take in the future." (FCC Ex. 212, excluded, Fitzpatrick to Richards, Dec. 11, 1943)

Richards replied:

"Regarding Davidson Taylor's letter to you. He says we cannot deal with controversial issues of any nature or in any form; we cannot have such problems treated dramatically, in straight continuity, or by guest speakers. What in the hell can we do? I have always told you Americanism is not controversial and if we want to put good Americans on Motor City Melodies it's none of their damn business.....These programs are good sound music programs, but you know what I want to do and let's find a way to do it." (FCC Ex. 125, Richards to Fitzpatrick, January 16, 1946)

237. Even in the instances in which Mr. Richards suggested persons prominent in the Democratic Party as speakers on F.O.B., his choice was expressly conditioned upon having a Democrat whom he understood opposed the Administration policies and particularly a fourth term for President Roosevelt. After Fitzpatrick had suggested the need for Democratic speakers, Richards at various times mentioned a number of Democratic personalities as speakers.

238. Thus, at the time when it was well known that James A. Farley was strongly opposed to the nomination of President Roosevelt for a fourth term, Richards urged that he speak on the F.O.B. program. Part of the instructions concerning Mr. Farley are contained in a letter written in February, 1944 by Mr. Richards to Fitzpatrick (FCC Ex. 52):

* * * *

"Get Farley for St. Patrick's Day. St. Patrick drove the snakes out of Ireland. Why not Farley help drive the bureaucrats out of Wash.

* * * *

"I am anxious to get out a lot of our first speeches and programs (F.O.B.).....ask the owners and mgrs to see they get in hands of real folks who can influence votes....I know we can build up and do a lot of good between now and Nov. Keep plugging Fitz, and we can celebrate Nov. 8th knowing we helped save our way of life."

".....Don't forget to buy a set of Roosevelt talks and pledges and promises. Ours of Oct. 2nd, 1932 at Statler Hotel is in there but it doesn't say over WJR. There are enough broken promises & screwy ideas that all fell down or did just the opposite to defeat 10 New Deals if we only use them now."

Mr. Farley appeared on the F.O.B. program March 25, 1944 (FCC Ex. 138). His speech, however, expressed no partisan point of view. Mr. Richards was disappointed in the program and wrote to Mr. Fitzpatrick on March 31, 1944 (FCC Ex. 56):

"Farley's program only fair. The program was long and drawn out. The skit on Paul Jones not apropos at all."

239. At a time when it appeared to Richards that Senator Alben Barkley, a close friend of President Roosevelt, had fallen out with the President, he told Fitzpatrick to get

Barkley to speak on F.O.B. (FCC Ex. 53). However, shortly thereafter, Mr. Richards advised Fitzpatrick:

"Leave Barkley out. He's turned yellow already." 1/ (FCC Ex. 56)

240. Mr. Richards' idea of balance is indicated by the following language in a letter to Fitzpatrick:

"He (Dewey) will have many good reasons probably for being careful when and how he goes on FOB. Same as Farley and all other politicians. But remember it is always time in and out of season and election years to talk Americanism and they will surely see that if put up to them in that way...Woodring might be a good bet. Byrd, Chandler, and some of those dyed-in-the-wool Democrats are better to pour it on this N D than Republicans. Also former stooges like Kennedy..." (FCC Ex. 54)
(Underlining supplied)

241. Senator Guy M. Gillette, Democrat from Iowa, appeared as a speaker on FOB on May 20, 1944 (FCC Ex. 146). There was nothing partisan in his talk nor did it contain any views opposite to the political views so frequently included on other FOB programs. His subject was a plea for religious and racial tolerance in the coming presidential campaign.

242. William Green, President of the American Federation of Labor, was the speaker on FOB on May 27, 1944. (FCC Ex. 147) Nevertheless, the same subtle anti-Administration theme which characterized other programs were interjected in the dramatic continuity. The narrator stated:

1/ This reference was obviously to the fact that Barkley had in the meantime expressed himself as not opposed to President Roosevelt.

"Mr. Gompers knew that labor would be the first to suffer if crackpot theories of power hungry schemers were substituted for the American Constitution."

Later in the program the narrator stated:

"This job will be done by Americans who rule their own lives and their own country. It won't be done by foreign 'isms' jealous of our progress. They want to destroy our freedoms. Nothing good will come to America from those who want to destroy us and to do so, pit one group against another. Also, if we have too much governmental control we lose opportunity. If we run to government, government will soon run us.....and labor will be among the first to suffer."

243. There was nothing partisan in Mr. Green's speech. Nor did it contain any views opposite/^{to} those political views included so frequently on other FOB programs. Mr. Green's invitation to this program was in keeping with the hopes of Mr. Richards that the American Federation of Labor could be swung to the Republican cause. In a letter to Mr. Fitzpatrick (FCC Ex. 59, April 18, 1944) he stated:

"AFL's ready to swing over if they are convinced they will get a square deal. CIO & Communists & Arabs never."

244. On the FOB program for June 17, 1944 (FCC Ex. 150) the speaker was William L. Hutchison, President of the United Brotherhood of Carpenters and Joiners of America. In reporting to Mr. Richards on the speech prepared by Mr. Hutchison, Mr. Fitzpatrick

wrote in a letter, dated June 16, 1944 (FCC Ex. 123, improperly excluded):

"I sent Mark Haas down to Indianapolis for the broadcast tomorrow, and while Hutcheson remained adamant on his talk, it may not sound so bad after we have a chance to revise a few of the statements in it.....During the summer we will try to sell the idea of what we are fighting for with an outstanding musical program and one or two brief dramatic skits. I think that the 'Voice of Victory' will accomplish as much as the speakers that we have had."

245. The speech given by Hutcheson was not partisan. There were no views in it opposite to the political views included so frequently on other FCB programs.

246. It must be found that applicants submitted no evidence whatsoever refuting the foregoing findings pertaining to the Victory F. O. B. program in the period preceding the 1944 national elections or supporting any contrary findings. Applicants introduced evidence showing who the speakers were on F. O. B. and the format of the program in the years 1933-1934, (T. 16912 et seq.) and in 1942-1943 (T. 16937 et seq.). In addition, evidence was introduced to show that the program was highly regarded and received commendations (App. Ex. 500, T. 16935, 17229-17230, 16742). The nature of the program in 1933-1934, and 1942-1943, could, of course, in no sense refute the Commission's evidence of the manner in which the program was used for partisan political purposes during the period preceding and connected with the national elections in 1944. Moreover, the evidence submitted by the applicants

was probatively worthless since it did not show the specific content of the speeches and continuity in the 1932-1934 and 1942-1943 programs in support of the contention presumably made by applicants that the program was fair and impartial or non-partisan in nature.

2. The "Mother's Album Program"

247. The "Mother's Album" program was one produced at WJR and broadcast on WJR and KMPC. 1/ It was dedicated to Mr. Richards' Mother. Pursuant to his general efforts to utilize his stations for partisan political purposes, in a letter written on April 4, 1943 to Fitzpatrick, Richards stated:

* * * *

"My mother, Fitz, would be doing her very best if she were alive today to preserve the Am. way of life and save our country from these foreign-minded bureaucrats who have entrenched themselves in Wash. and want to stay there the rest of their lives and tell the Christians and Am. citizens what they can and cannot do in the future. So I want you to think up a way to have her program help to eliminate them in Nov. 1944. 2/ (FCC Ex. 42).

The record does not show to what extent, if any, this program was actually utilized in the manner Mr. Richards desired.

248. It must be found that no evidence was submitted by applicants which in any way refuted the foregoing findings concerning the use of the Mother's Album program to defeat the Democratic administration in 1944 or which would support any contrary findings to those heretofore set forth. Applicants, introduced

1/ The record does not show whether or not the program was also carried on WGAR.

2/ The tenor of this letter is almost identical with similar expressions in letters relating to the use of the F.O.B. program to help elect the Republicans in the 1944 national elections.

evidence that on July 18, 1948 President Truman's mother was honored on the Mother's Album program (T. 2331, App. Ex. 33). Not only was this clearly unrelated to the evidence concerning Mr. Richards' orders with respect to the Mother's Album program during the period preceding the 1944 elections, but the action honoring the President's mother must be found to have been done pursuant to the effort made at KMPC to "build up" a record of fair and impartial programming, after the Commission investigation had begun. Oddly enough, applicants could not find a single instance where the stations had honored either President Truman's mother or President Roosevelt's mother on "Mother's Album" during the twelve years preceding the investigation when this program was carried on Mr. Richards' stations. During that period, the only instance in which President Truman's mother was involved in the programming of Mr. Richards' stations was on the occasion in which Mr. Richards took Ted Grace to task for mentioning the President's visit to her during her illness, a situation which led to Grace's resignation (T. 16123).

3. The Rupert Hughes Series of Programs

249. Among Mr. Richards' most determined efforts to utilize the programming of his stations in a manner designed to exploit, on a partisan and discriminatory basis, his political views are those connected with a series of political broadcasts carried on the facilities of Stations KMPC, WJR and WGAR, during the political campaign period in 1944.

250. In July 1944, Mr. Richards instructed Fitzpatrick, WJR General Manager, to obtain the services of Bill Cunningham, a Boston station commentator (T. 16660). Fitzpatrick went to Boston and discussed with Cunningham the possibility of his becoming the Richards' stations commentator by broadcasting from Boston or Washington (T. 16660-16661). Fitzpatrick was instructed by Richards to get Cunningham at any price (T. 16663-16664). Fitzpatrick reported to Richards in a letter dated July 31, 1944 (FCC Ex. 79, improperly excluded):

* * * * *

"I returned Saturday from Boston, where I had a couple of talks with Bill Cunningham. I made him a proposition of \$200 a broadcast three times a week, or \$600 a week."

* * * * *

"I told him that you were very much interested in the coming campaign, that you were very thrilled with the last broadcasts that you had heard him give and that we would like to have him on a series of broadcasts, at least between now and the first of the year."

* * * *

"I thought that along the political line we would follow the plan that the Republican party is using, and concentrate all of our direct activities to the nine weeks before the election, as I understand that is what Dewey plans to do, and we could work hand in glove with those plans using our 'In Our Opinion', 'Victory F.O.B.' with speakers, 'Know Your America' all our own programs - and our commentator when we decide upon one." 1/

251. On August 2, 1944, Richards, in reply to the above, sent the following telegram to Fitzpatrick (FCC Ex. 81):

"Your offer to Cunningham very liberal. Do not commit us beyond November seventh but get him until then if possible."

252. The deal with Cunningham did not materialize, however, Richards was able to make satisfactory arrangements with Rupert Hughes, author, historian, and an able speaker, for a series of commentary programs (T. 1508, FCC Ex. 88). Reynolds, General Manager of KMPC, wasn't sure whether the Hughes plan was Richards' idea alone or grew out of a meeting or discussions Richards had with the Republican Committee (T. 1509). In any event, the arrangements with Hughes were confirmed in a letter from Richards to Hughes in August 1944. Under the plan stated in this letter, KMPC would

1/ Fitzpatrick testified that the plan he referred to in his letter to Richards was a hypothetical one; that in devising this plan he had as his objective the "appeasement" of Mr. Richards. He stated that he knew Richards would probably forget it and that he (Fitzpatrick) had no intention of carrying it out (T. 16664-16666). Mr. Richards did not "forget it" as is shown by his later engagement of Rupert Hughes.

pay Hughes \$150 per program (less usual payroll deductions) for transcribing three programs per week for 10 weeks to be broadcast over the three (Richards) stations starting no later than August 23, 1944, and that other stations throughout the country could broadcast the programs if they so desired. Reynolds of KMPC was to complete the arrangements with Hughes concerning transcriptions and other details both for Los Angeles as well as Detroit and Cleveland (FCC Ex. 88).

253. A copy of the above letter confirming the Hughes arrangements was sent to Fitzpatrick with a covering letter from Eugene Carr, Assistant to the President. Carr stated that Richards felt that the Hughes deal should be a joint-promotion of the three stations with the cost allocated among them on an eight-four-two ratio for WJR, WGAR, and KMPC, respectively. With respect to this, Carr stated: "Mr. Richards thinks that there could never be any question involved in WJR paying more for talent to be used on a 50,000 watt station in the Detroit area . . ." Carr also told Fitzpatrick that Reynolds would take care of building up the introduction and closing of the programs and put some showmanship into the broadcasts with a good announcer, sound effects, and so forth. Further, Reynolds would see to it that Fitzpatrick received promotion publicity material (FCC Ex. 107).

254. In a letter dated August 8, 1944, Fitzpatrick wrote to Richards as follows (FCC Ex. 85, improperly excluded):

"I think that your Rupert Hughes plan is a splendid one. It will work out much better by transcription than if we were trying to match time in each city by piping in Bill Cunningham or some other commentator by wire.

I talked to John John Patt, WGAR this morning and told him to reserve three 15-minute periods a week, one preferably on Sunday, and he thinks he can put it on from 5:45 to 6:00 on week-days.

The talks should be approximately 12 minutes, with your theme song and your introduction taking approximately a minute and a half at the beginning and the close. If we can get permission it would be a good thing to use the song 'The Time Is Now' for the theme, the one that is being exploited by Fred Waring. Gene can find out if it is possible to use this or not.

I think we should plan to start running these at approximately the first of September. I think also that Hughes should make at least two or three in advance, in case anything happened to the mailing of the recordings, so we would have one or two on hand to tide us over. We should also use the best announcer we can possibly get on them.

We have available at present 5:15 to 5:30, Monday, Wednesday and Friday, and 1:45 to 2:00 on Sunday, although we have an option on the latter time. Columbia has a program on the air at 7:15 to 7:30 on Friday and Edwin C. Hill on Tuesdays from 6:15 to 6:30, but it might be possible to cancel. However, we have to give 28 days notice with cancellations, and that would keep us from starting on September first.

Inasmuch as it is going to be a direct appeal to the women, don't you think that 5:15 to 5:30 would be OK? If we find some other spots available later on we could repeat the shows, inasmuch as they will be of a general nature and not have any specific timing on them. Tell Hughes to pay particular attention to this in his script, and not peg time too accurately, because we will be using these shows sometimes four or five days after he has recorded them and maybe a week later.

I wish you would let me know your selection of time so that we can immediately reserve the spot for the broadcast. As you know, we have commitments for practically every minute of our time to date, and as soon as the political commitments start coming in I don't know how we are going to handle half of them. The whole plan seems to be concentrated from the week after Labor Day right on through the first week in November."

* * * * *

255. In reply to the above, Richards wrote Fitzpatrick (FCC Ex. 619):

"Glad you like Hughes idea."

* * * * *

"Run ads in Cleve. and Detroit and plug over station. They should get some votes especially the ladies. 'To the Ladies' is a good title-- use it in the ads....We are paying him \$150 a broadcast. Give best time possible. Tues Thurs. Sundays." (FCC Ex. 619)

256. Richards' desire to achieve the maximum political effect from the Rupert Hughes programs and to tie them in with the operations of his three stations is disclosed in a telegram to Fitzpatrick a few days later. He wired Fitzpatrick: "Get out printed copies of R. Hughes talks in attractive folder with a few good free speech quotations and make Free Speech (sic) on them." (FCC Ex. 108) Moreover, Richards' personal interest in the smallest detail concerning the broadcast is further demonstrated by his efforts to obtain Fred Warings permission for the use of the song "The Time is Now" on the Hughes programs (FCC Ex. 110).

257. On August 15, 1944, Fitzpatrick wired Richards to rush a sample of the R. Hughes programs so that he could submit it to the Republican group (FCC 617). Two days later, Richards replied that the Hughes sample record was on its way and that Fitzpatrick should sell the series to the "Local Committee." (FCC Ex. 596).

258. Richards' basic plan to utilize the Rupert Hughes' broadcast series on an almost nation-wide basis in behalf of the Republican Party and at virtually no expense to the Republican Party is disclosed in a letter he wrote to Douglas Mode, 1/ at the Republican Party headquarters. Richards wrote to Mode: "I have engaged Rupert Hughes to give thirty broadcasts starting September 1st, three a week over our three stations. I fully expected to supplement our stations with 25 or 30 more located in cities where we have our 26 Republican Governors." Richards continued by reporting that a CIO pamphlet demanding equal time for Roosevelt spiked a favorable response from the station owners, and that as a result it would take a lot of selling to get the stations to put the Hughes talks on. "If the station owners are not reassured that their licenses will not be in jeopardy, you can readily see the handicap it will put on Dewey," Richards wrote. (FCC Ex. 111)

1/ Mode was Secretary to (Senator) Homer Ferguson and had been on loan to Dewey's headquarters during the 1944 political campaign (FCC Ex. 595).

259. In a letter dated August 16, 1944 from William A. Alfs, WJR attorney, Richards was advised that the plan he was intending to follow with respect to the Rupert Hughes' broadcasts possibly involved serious infractions of the law and should be dropped or, in the very least, modified. Alfs wrote (FCC Ex. 109):

"If the Rupert Hughes broadcasts follow the pattern of his past broadcasts, we may assume that they will be anti-New Deal and anti-Labor. Your statement to me over the telephone that he intended to go even further in this proposed series than he had in the past on NBC puts us on notice that we will immediately become the target for the CIO Political Action Committee as well as other regularly constituted New Deal agencies."

"The regulations in effect require that equal facilities be offered the opposition for the purpose of replying to any broadcast which attacks a political party, its candidate, or any group. If we present thirty 15-minute broadcasts, as is now proposed, we will in all probability be obliged to give additional thirty 15-minute periods to the opposition for reply. It may run more than thirty 15-minute periods but I think we would comply with the regulations if we did make available thirty 15-minute periods of comparable time. If these Hughes broadcasts are unsponsored and are paid for by our stations and the time allocated free by the stations, it simply means we would have to make available free time to the opposition to reply."

"If the broadcasts were sponsored by a regular political party, we would still have to make available comparable time on the same terms and conditions. The likelihood of demands for time to reply is reduced because the CIO wants free time and not paid time. They may demand the right to buy equal time in order to reply and, if they do, we must make it available to them."

"I mentioned to you a possible violation of the so-called Hatch Act. You were of the opinion that the Hatch Act did not apply to corporations. I am enclosing herewith a copy of the pertinent provisions of that Act and you will see it does apply to corporations as well as to individuals. If you add together

the cost of paying Hughes for making the broadcast, the card rate on the stations for the time used, the cost of cutting and distributing the records, and the cost of advertising the broadcasts in newspapers, etc., it is probable that the limit set in the Hatch Act will be exceeded and all three stations will be subject to the penalties provided in that Act."

* * * * *

"In putting Rupert Hughes on the air in the manner which you propose to do, whether it is done as a sponsored or unsponsored broadcast, you must recognize that we are heading for trouble. That trouble will be diminished if the broadcasts are sponsored by the Republican National Committee but, even so, we are going to have some problems as a result of these broadcasts."

"To put these broadcasts on unsponsored and as a sustaining feature of our stations is a serious mistake and I urge you to abandon that plan. It is my personal opinion that it would be better if none of our stations was identified with this project at all, either on a sustaining or on a commercial basis. If the package were produced by some advertising agency, and broadcast by us properly identified as a paid political broadcast, we would be in a much better position."

260. Notwithstanding the attorney's advice that "it would be better if none of our stations was identified with this project at all, either on a sustaining or on a commercial basis," Richards personally engaged Rupert Hughes for the broadcast series and the KMPC payroll records show that Hughes was paid a total of \$4,650 by KMPC. (FCC Ex. 291,88). The fee paid to Hughes was eventually shared by the three stations with WJR paying \$2,650.50; WGAR, \$1,348.50; and KMPC \$651 (App. Ex. 57-58).

261. The attorney's alternative advice with respect to sponsorship of the series was apparently accepted, however. On August 24, 1944, Reynolds, on behalf of KMPC, entered into

a contract with the Elwood Robinson Advertising Agency providing for the sponsorship of the Rupert Hughes series on KMPC by the Republicans of Southern California. This contract (and a subsequent one entered into on November 4, 1944) provided for a total of 31 quarter-hour broadcasts to be given by Hughes on Monday, Wednesday and Friday of each week between August 28 and November 6, 1944.^{1/} The combined contracts called for payment to KMPC of a total of \$4,650 for the following KMPC services (FCC Ex. 171):

Time Costs	- 31 broadcasts at \$80 or	\$2,480
Other Costs	- 31 broadcasts at \$20 or	620
Talent Costs	- 31 broadcasts at <u>\$50</u> or	<u>1,550</u>
Total	- 31 broadcasts at \$150 or	\$4,650

As a result of the sponsorship of Hughes on KMPC by the Republicans of Southern California, KMPC recouped only \$1,550 of the \$4,650 compensation paid to Rupert Hughes since the \$2,480 and the \$620 items above covered the broadcast time and other facilities of KMPC used in connection with the Hughes broadcasts.

262. Similar arrangements were to be entered into by WJR and WGAR since the modified Hughes plan called for each station to charge \$50 for talent on each of the 31 programs in the entire Hughes series (T. 16693). In this way, each of the three stations was to receive from its sponsoring Republican group the sum of \$1,550 for talent costs on the thirty-one programs and the stations would thus be reimbursed for their combined outlay of \$4,650.

1/ The full schedule of 31 programs was broadcast by KMPC. The station logs showed that 18 of the programs were announced as sponsored by the Republican Committee; 10 were announced as sponsored by the Republican Party; and 3 by the Republicans of California (FCC Ex. 173).

paid to Hughes for his services (T. 16689).

263. Even the modified plan, however, was not carried out on the other two stations. On September 13, 1944, WJR entered into a contract with the Fred M. Randall Advertising Agency providing for the broadcast of 24 quarter-hour programs over WJR starting September 13, 1944 under the sponsorship of the Republican Committee. The contract stated: "Unless speakers are provided by the Republican Committee, Rupert Hughes transcriptions are to be used."^{1/} The contract called for payment to WJR of \$160 per broadcast which covered WJR's time charges only. No charges for Mr. Hughes' services were made (FCC Ex. 616, T. 16691-16692). Further, station WGAR was unable to obtain sponsorship by the Republican Committee in Cleveland for any of the Hughes programs and the programs were then broadcast beginning September 25, 1944, on a sustaining basis. At the same time, WGAR provided the same amount of free broadcast time to the "liberal or New Deal point of view" (T. 18156-18157). The day after the Hughes series started on this basis, Richards wrote to Patt, WGAR General Manager: "I am sorry you had to put on the Hughes' series under those circumstances." (FCC Ex. 571) John Patt, in testifying with respect to the Hughes series on WGAR, stated that in the case of the Republicans the station provided both time and talent free whereas with the Democrats just free time had been provided. He stated that this particular fact never occurred

^{1/} WJR actually broadcast eleven of the Rupert Hughes programs between September 13 and November 3, 1944, and all were announced as sponsored by the Republican State Central Committee (FCC Ex. 629).

to him before it was raised in the hearing and that the Democrats were willing to go on without any payment of talent. (T. 18175-18176) It was not shown, however, that the Democrats were advised by Mr. Patt that WGAR and the other Richards' stations were bearing the cost of the talent. Patt testified further that he raised no objection to WGAR paying for the talent on the Hughes programs because he didn't regard the programs as they were used on WGAR as of a partisan nature. Patt stated that in his opinion it was merely a program of comments on the issues of the day and whether the program was sponsored by the Republican Party or offered as a sustaining feature of the station, he would still regard the program as non-partisan (T. 18196-18197). These were incredible assertions, for unless these broadcasts were partisan, it is inconceivable that the Republican Party in Detroit and Los Angeles would have been willing to pay anything to WJR and KMPC. Moreover, Mr. Patt can hardly explain why he found it necessary to give an equal amount of time to the "liberal or New Deal point of view" if he honestly believed the Hughes' programs were non-partisan.

264. Richards' continued interest in making the Hughes' broadcasts as politically effective as possible prompted the following instruction on September 28th to Fitzpatrick of WJR: "If you are not using plugs on the Rupert Hughes programs, please do so at once and advise me. Please ask John Patt (WGAR) to do the same." ^{1/} (FCC Ex. 112) Richards on the same day also

1/ KMPC broadcast a total of 5 courtesy announcements (or plugs) for the Hughes programs during the series on that station. (FCC Ex. 173)

wrote to Mr. Brownell, then Chairman of the Republican Party:
"We have arranged with 30 Mutual stations to take the Rupert Hughes talks starting next week on the Coast." (FCC Ex. 89)
Further, in a letter dated October 15, 1944, to Cushing of WJR, Richards wrote:

"Confirming Hattic's phone call regarding the Rupert Hughes' talks, here is a chance for Radio Jake to prove that he can get these articles in several hundred Michigan papers. I don't know whether or not Cleveland has the same set up. I hope they do. They should be carried in the small papers throughout Ohio. As a matter of fact, I don't know why they shouldn't be carried across the country in the Northern states. I think small town papers would be glad to have them as 90 per cent are Republicans. Please discuss this with Fitz and John Patt. I believe in multiplying efforts.

"We are going to work out a series of six or seven records for the final week of the campaign in such a way that all Northern centers with three, four, five, or more stations can use them the way we intend to here. I'll have Bob Reynolds keep in contact with WJR and WGAR regarding same.

* * * * * " (FCC Ex. 104)

The "Radio Jake" referred to in Richards' letter was employed by WJR to supply small towns and neighborhood newspapers with a free radio column as part of the program exploitation operations of the station. (T. 16,709)

265. Three days after the election was over, Fitzpatrick told Richards in a "letter of condolence" that everything humanly possible had been done, insofar as radio was concerned, to convince the voters of the dangers of 16 years in office. (T. 16, 717).

266. From the foregoing it is shown that Mr. Richards engaged Rupert Hughes to prepare and transcribe a series of thirty-one programs to be broadcast on a sustaining basis over each of the three stations. Hughes was paid \$150 for each program or a total of \$4,650 with the three stations sharing the cost. When Richards' attorney advised him that to present these unquestionably politically-partisan programs on a sustaining basis with the stations bearing the entire cost of the series would probably contravene the provisions of the Corrupt Practices Act and, in any event, obligate the stations to provide an equal amount of free time to opposing viewpoints, the plan was modified to provide for sponsorship of the programs by local Republican organizations. In accordance with this modification, each station was to sell the entire series of thirty-one broadcasts to a local Republican sponsoring group and charge \$50 for talent costs on each program. In this manner, each station was to receive a total of \$1,550 from its sponsoring group for talent costs on the entire series ($\$50 \times 31$ broadcasts) and the stations on a combined basis would thus have been reimbursed \$4,650 ($3 \times \$1,550$) for their initial outlay of the same amount to Hughes for his services. Since KMPC was the only station to receive \$1,550 for talent costs from its sponsoring group, the balance ($\$4,650$ less $\$1,550$) or \$3,100 represents an un-reimbursed expenditure by the stations in behalf of the Republican Party.

267. On the basis of the above-established facts, there can be no doubt that it was Mr. Richards clear intent in airing

the Hughes series to utilize the facilities and funds of the three stations during the 1944 political campaign to discriminate in favor of his own partisan political views. Moreover, there can be little doubt that, in devising the initial plan for the Hughes series, Richards intended not only that the stations would produce and broadcast the entire series at no expense to the Republican Party but also by airing these programs on a sustaining basis and without announced sponsorship by the Republican groups, Richards hoped to preclude opposing political parties from securing equal time on the station for reply.

268. It is also clear that the Hughes series, as eventually broadcast by the stations, constituted rank discrimination and prejudice by the stations in favor of one political viewpoint since over \$3,000 was expended by these stations to provide free talent to one political party, while similar arrangements for free talent were not offered to opposing viewpoints.^{1/} The contention of applicants that equal opportunity would have been afforded to opposing viewpoints, had any such requests been made (T. 1544-1546), has no merit since representatives of other viewpoints were in no position to request or demand equal opportunity

^{1/} While a serious question is still presented as to the violation of the Corrupt Practices Act (18 U.S.C., Section 608, 610, 591) in respect to the Rupert Hughes incident as well as by the facts shown with respect to other political broadcasts for which free time was given by KMPC (See pages 158 to 166 herein), no finding is proposed herein as to whether such a violation occurred, since in the light of the nature of the issues herein, it is unnecessary to make a finding on this question.

in view of the manner in which arrangements were made for Hughes' ^{1/} services. The only documents concerning the Rupert Hughes' programs which were on file at KMPC and WJR and available for public inspection in accordance with Section 3.190(d) of the Commission's Rules did not disclose in any way that the stations were underwriting the cost of Hughes' services (FCC Ex. 171, pages 192-199; FCC Ex. 616). Nor was it shown by applicants with respect to WGAR that any records were available for public inspection at that station which would show WGAR's financial participation (App. Ex. 57-58) in the cost of the Hughes' programs. In fact, Patt blandly stated that this point never even occurred to him before it was raised in the hearing (T. 18175-18176).

269. No evidence whatsoever was submitted by applicants in refutation of any of the evidence supporting the foregoing findings with respect to the Rupert Hughes' series of programs.

1/ Inasmuch as the Hughes' programs were not announced as paid for partially by the stations, as they actually were, there was a violation of Section 317 of the Communications Act of 1934, as amended, and Section 3.189 of the Commission's Rules. The failure to make the type of announcement required by law contributed to the resultant dissemination in favor of the Republican cause.

4. Broadcasts by and on behalf
of political candidates

270. Perhaps the most flagrant example of the utilization of the facilities controlled by Mr. Richards for partisan, discriminatory purposes in favor of Republican candidates was shown in the handling by KMPC of admittedly political broadcasts by or on behalf of the presidential and vice-presidential candidates during the political campaign preceding the 1944 national elections. Here the facts clearly show violations of the provisions of Section 315 of the Communications Act of 1934, as amended^{1/},

^{1/} SEC. 315. If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect; Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

and Sections 3.190(c) and (d) of the Commission's Rules and Regulations.^{1/}

271. The KMPC financial books for 1944 contain an accounts receivable ledger sheet titled: Republican Committee - Gov. Bricker (FCC Ex. 292). Between October 11, 1944, and November 6, 1944, a total of 12 programs were charged to this account (T. 8182-8184). Ten of these programs were talks by Governor Bricker, one by Governor Dewey, and one by Governor Warren (FCC Ex. 173).^{2/} The total charges to this account purportedly covering the twelve speeches amounted to \$292.40 (T. 8185, FCC Ex. 292). A summary of the twelve programs

1/ Section 3.190(c) provides:

"(c) Rates and practices. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, directly or indirectly; no licensee shall make any discrimination in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to these rules, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office."

Section 3.190(d) provides:

"(d) Records; inspection. Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted."

2/ Nine programs were announced as sponsored by the Republicans of California (or So. Calif.); two as sponsored by Republican Committee; and one by Democrats for Dewey (FCC Ex. 173).

charged to this account, segregated by the applicable class of station time^{1/} and applying the KMPC rates^{2/} existing at that time (T. 8230, FCC Ex. 339), establishes that the total charges made to this account were insufficient in the amount of \$212.80 (T. 8185; FCC Ex. 292, 339). The summary follows:

	<u>Total Amount</u>
<u>Class "A" Time</u>	
1 $\frac{1}{2}$ hour program @ \$102	\$102.00
<u>Class "B" Time</u>	
3 $\frac{1}{2}$ hour programs @ \$51	153.00
1 $\frac{1}{4}$ hour program @ \$36	36.00
<u>Class "C" Time</u>	
7 $\frac{1}{2}$ hour programs @ \$30.60	<u>214.20</u>
Total Correct Charges	\$505.20
Total Actual Charges	<u>292.40</u>
Difference	<u><u>\$212.80</u></u>

Further, of the \$292.40 which was charged to this account, cash payments totalling only \$61.20 were received by KMPC and credited to this account, leaving an unpaid balance on October 31, 1944, of \$231.20. This balance remained unpaid on the books until one

1/ Class "A" time, 6 P.M. to 10 P.M.; Class "B", 8 A.M. to 6 P.M. and 10 P.M. to 11 P.M.; Class "C", 11 P.M. - 12 M, 6 A.M. - 8 A.M. (FCC Ex. 339).

2/ KMPC rates for political broadcast time were at the one-time card rate less 15 per cent agency commission (FCC Ex. 171, 339).

year later, on October 31, 1945, when a general journal entry of \$231.20 closed out the account (T. 8193). The source of the \$231.20 credit to this account in October 1945 was derived from the station's "Reserve for doubtful political accounts" which had been set up on the KMPC books in December 1944 (T. 8193).

272. A second KMPC Accounts Receivable ledger sheet titled "Democrats for Dewey" listed a total of 18 broadcasts between October 18 and November 6, 1944 (FCC Ex. 292). Ten were broadcasts by Governor Dewey, one by Governor Warren, one by Ginger Rogers, and the speakers were unidentified on the remaining six broadcasts (FCC 173)^{1/}. The total charges to this account purportedly covering the 18 broadcasts were \$771.80 (T. 8204). The following summary of the 18 broadcasts listed in this account establishes that the total charges were insufficient in the amount of \$333.20 (FCC Ex. 292, 339):

^{1/} All of these programs were announced as sponsored by the Democrats for Dewey (FCC Ex. 173).

	<u>Total Charges</u>
<u>Class "A" Time:</u>	
4 $\frac{1}{2}$ hour programs @ \$102	\$408.00
3 $\frac{1}{4}$ hour programs @ \$68	204.00
<u>Class "B" Time:</u>	
8 $\frac{1}{2}$ hour programs @ \$51	408.00
1 $\frac{1}{4}$ hour program @ \$34	34.00
<u>Class "C" Time:</u>	
1 $\frac{1}{2}$ hour program @ \$30.60	30.60
1 $\frac{1}{4}$ hour program @ \$20.40	20.40
Total Correct Charges	\$1,105.00
Total Actual Charges	<u>771.80</u>
Difference	\$ 333.20

Further, of the \$771.80 which was charged to this account, cash payments totalling only \$340 were received by KMPC and credited to the account, leaving an unpaid balance of \$431.80 (T. 8206). The balance remained unpaid on the books until October 31, 1945, when a journal entry in the amount of \$431.80, posted from the station's "Reserve for doubtful political accounts", closed out the account (T. 8207, FCC Ex. 292).

273. A third KMPC Accounts Receivable ledger sheet for the year 1944 is titled: Democrats for Dewey Programs. A total of 46 broadcasts between September 26 and November 7, 1944,

were listed in this account.^{1/} Total charges to this account purportedly covering the 46 broadcasts were \$1,091.39 (FCC Ex. 292). The following summary of the broadcasts listed in the account establishes that the total charges made were insufficient in the amount of \$172.01 (FCC Ex. 292, 339):

		<u>Total Charges</u>
<u>Class "A" time:</u>		
2	$\frac{1}{2}$ hour programs @ \$102.00	\$204.00
<u>Class "B" time:</u>		
1	$\frac{1}{4}$ hour programs @ \$36.00	36.00
2	25 minute programs @ \$42.50	85.00
1	$\frac{1}{2}$ hour program @ \$51.00	51.00
<u>Class "C" time:</u>		
33	$\frac{1}{4}$ hour programs @ \$20.40	673.20
7	$\frac{1}{2}$ hour programs @ \$30.60	<u>214.20</u>
	Total Correct Charges	\$1,263.40
	Total Actual Charges	<u>1,091.39</u>
	Difference	<u>\$ 172.01</u>

^{1/} Eleven of these were broadcasts by Gov. Dewey; one by Gov. Bricker; one by Gov. Warren; and 33 were by Senator O'Daniels. The sponsorship of these programs was announced variously as Democrats for Dewey, Republicans of California (or So. Calif.); for one Dewey broadcast, no sponsorship was shown by the log. (FCC Ex. 173)

274. Despite specific request for information made by Commission counsel^{1/}, no evidence was offered by applicants to show that the following political programs had ever been charged for or that payment for them had been received by KMPC (T. 8233-8236; FCC Ex. 173):

<u>Date</u>	<u>Time</u>	<u>Title</u>	<u>Sponsor</u>
Sept. 9, 1944	10:30 - 11:00 P. M.	Gov. Bricker	None given on log
Sept. 22, 1944	12:05 - 12:18 P. M.	Dewey arrival	Republicans of Calif.
Sept. 23, 1944	12:15 - 1:00 P. M.	Dewey Rally	Republican Party
Oct. 28, 1944	12:45 - 1:00 P. M.	Rupert Hughes	Republicans of Calif.

Station time charges for the above programs amount to a total of \$220 (FCC Ex. 339).

275. The foregoing facts establish that free broadcast time in the amount of \$1,601.01 was provided by KMPC to Republican sponsoring groups during the 1944 political campaign. In a number of instances, the sponsoring groups were not charged for political time allotted to them by KMPC. In other instances where charges were made for broadcast time, substantial portions

^{1/} The reason for Commission counsel's request was that no bills for these speeches were found in the KMPC record of political broadcasts (FCC Ex. 171) which did contain bills for other political broadcasts.

of such charges were, in effect, rebated through the device of writing off such charges to "bad debts".

276. The record further establishes that KMPC records of political broadcasts required to be maintained in accordance with Section 3.190(d) were extremely incomplete and inaccurate. No information was contained in these records to show that numerous broadcasts by or on behalf of Republican candidates were carried without charge by the station (FCC Ex. 171; supra pp. 159 - 164). Nor did such records contain information to show that billings made by the station to Republican sponsoring groups were ever, in fact, collected by the station (FCC Ex. 171, pp. 7, 18, 19). As a result of the incompleteness and inaccuracy of such records, opposing political viewpoints were in no position to request or demand equal amounts of free time from KMPC. Indeed, the fact that virtually all of the programs (for which charges were never made or were never collected) were announced by KMPC as commercially sponsored programs only served to mislead opposing groups into believing that such programs were duly paid for.^{1/}

277. Although the Chief Auditor of KMPC was brought to the stand as a witness on two separate occasions, no effort was made by applicants through his testimony, through documentary proof, or through any other witness, to explain the foregoing facts. Nothing was said by any witness as to whether bills were

^{1/} As in the case of the Rupert Hughes' broadcasts, the failure of the station to announce that it contributed time free, or put another way, the untrue announcement that the time was paid for by Republican sponsoring groups, were in violation of Section 317 of the Act and Section 3.189 of the Commission's Regulations.

ever rendered by KMPC to the sponsors for the uncollected charges, or whether any follow-up efforts to collect were ever made. Nor were any testimony or records produced showing that any unpaid time was ever offered or given to Democratic presidential candidates in compliance with the obligation of licensees under Section 315 of the Act to "afford equal opportunities to all other such candidates for that office."^{1/}

278. It must be found, therefore, in the light of all these facts, that KMPC engaged in discriminatory treatment favoring the Republican presidential candidates, in the use of the station's facilities, to the disadvantage of the opposing Democratic presidential candidates in the 1944 elections. It must also be found that such discriminatory actions on the part of KMPC were taken pursuant to the general directives, which the evidence as a whole establishes, given by Mr. Richards as the chief official and controlling stockholder of KMPC, and laying down policies for the utilization of the station's facilities for the partisan political purpose of achieving the election of Republican candidates for national public office.

279. The partisan policies of KMPC in respect to political time were further established on the record in respect

^{1/} The facts in connection with these political broadcasts must be considered in connection with gross and deliberate misrepresentations made to the Commission in September 1948, with respect to the nature of political broadcasts over the facilities of KMPC during the 1944 national election campaign. These facts are separately discussed in the section immediately following the present.

to the 1946 Congressional elections. In correspondence with Mr. Fitzpatrick, Mr. Richards set forth a policy of use of the three stations to elect Republican Congressmen in these elections.¹⁷

Thus, in a letter dated September 7, 1945, he stated:

"In the meantime lets try and add one member to House from our 3 stations. That would leave 25 to go from all other states in order to control the House - " (FCC Ex. 206)

280. Reference is here made to the findings heretofore made concerning instructions by Richards regarding Helen Gahagan Douglas (supra, p. 32). In contradiction to claims made by applicants' counsel concerning KMPC's alleged fairness to Mrs. Douglas, the record shows the contrary in connection with her campaign for election to Congress in 1946.

281. On October 30, 1946, Station KMPC was requested to provide 15 minutes of Class "A" time (6:00 P.M. - 10:00 P.M.) on November 2, 3, and 4, 1946, to Helen Gahagan Douglas, Democratic candidate for Congress in the November 5, 1946 election (T. 14258). This request was not granted by the station and the reason given was "No 'A' time available and nothing else wanted." (T. 14258-14259; FCC Ex. 169, 346-348).

282. The KMPC program logs for the three days on which time was requested on behalf of Mrs. Douglas show that the following program periods during Class "A" time were available for sponsorship (FCC Ex. 428):

17 Richards told Fitzpatrick that he wanted preferred time given to Republican candidates (T. 16712).

<u>Date</u>	<u>Time</u>	<u>Program</u>	<u>Type</u>
Nov. 2, 1946	7:05 - 7:30 P.M.	Your Children and Their Songs	Recorded sustaining
Nov. 3, 1946	6:30 - 6:45 P.M.	Mother's Album	Recorded sustaining
	6:45 - 7:00 P.M.	Mayor Bowron	Live sustaining
	7:30 - 7:45 P.M.	Land of the Free	Recorded sustaining
Nov. 4, 1946	6:45 - 7:00 P.M.	Vaughn Monroe ^{1/}	Recorded ^{1/} sustaining

283. On October 29, 1946, the day before the request for time was made in behalf of Mrs. Douglas, KMPC received a request for political time from the Jeffersonian Democrats, a political group backing Republican candidates (FCC Ex. 346, pp. 40-45, T. 1468). The request was for one fifteen-minute (7:15 - 7:30 P.M.) and one five-minute period (9:00 - 9:05 P.M.) of Class "A" time on Sunday, November 3, 1946, and one five-minute period (9:00 - 9:05 P.M.) on Monday, November 4, 1946. These requests were granted and the programs scheduled. On previous Sundays, the 7:00 - 7:15 P.M. program period had been occupied by "recorded sustaining" programs and the 9:00 - 9:05 P.M. program period had previously been occupied by "live sustaining" news programs (FCC Ex. 346, 428).

^{1/} The log describes this program as "Recorded Sustaining" although it also appears to indicate that at 6:55 P.M. there was a one-minute transcribed announcement for "Ice Hockey".

284. On October 31, 1946, the day after the request for time was made in behalf of Mrs. Douglas, a fifteen-minute period was requested in behalf of the candidacy of Senator Knowland, Republican candidate for Senator. Although the Knowland request involved station "B" time from 4:15 - 4:30 P.M. on Saturday, November 2, 1946, the request was granted and the time made available (FCC Ex. 346, 428). The 4:15 - 4:30 P.M. program period made available for Senator Knowland had been occupied the two previous Saturdays by a "Recorded Commercial" program entitled "Latin American Melodies" (FCC Ex. 428).

5. Misrepresentation by applicants to
Commission regarding political broadcasts.

285. On September 3, 1948 pursuant to a request contained in a Commission letter dated August 12, 1948, applicants filed material covering the past operation of the three Richards' stations (supra pp. 1-2). Included in this material was a Section 22, entitled: "A Comparative Study of Receipt and Disposition of Requests to KMPC for Political Programs and Spot Announcements for April 1944 to April 1948." (T. 1374, FCC Ex. 169).

286. Section 22 purported to show for the period April 1944 to April 1948, the name of each candidate requesting time for a political broadcast on KMPC, his political party affiliation, the date the request was made and the amount of time requested. When a request for time was not granted by KMPC, the reason therefor was given. A total of three requests for time during 1944 were listed in this section in the names of Republican candidates Thomas E. Dewey or Governor Bricker. The disposition of one of these requests was reported as "Not confirmed by agency", another as "Not released - time unavailable" and the third as resulting in a scheduled broadcast of fifteen minutes. Two requests for time during 1944 were listed under the name of former President Roosevelt, Democratic candidate for President, and in each case the request was shown to have resulted in a scheduled broadcast -

one of forty minutes and one of seven and one-half minutes. At the end of Section 22 a statistical summary was presented to show the total amount of broadcast time actually allotted by KMPC to the candidates of each political party during the entire four year period. This summary was as follows:

(FCC Ex. 169)

Republican Candidates - 7 hours, 18 minutes

Democratic Candidates - 6 hours, 35 minutes

Independent Candidates - 2 hours, 11 minutes

Bi-Partisan Candidates - 3 hours, 5 minutes

287. There can be no doubt that by the above showing applicant intended to represent to the Commission that requests to KMPC for political broadcast time had been handled fairly by the station and that KMPC had achieved a reasonable parity in scheduling such broadcasts. Such a showing, it was hoped, would in part, lead to a dismissal of the Commission's investigation (T. 8116). The record clearly establishes, however, that the showing made was inaccurate and grossly incomplete. Almost twenty hours devoted by KMPC to some forty broadcasts and re-broadcasts of political speeches by Republican candidates Dewey and Bricker during the 1944 Presidential Campaign had not been included (T. 1331-89, FCC Ex.173).

Moreover, the two broadcasts in 1944 by former President Roosevelt were improperly included in an obvious attempt to show balance in the time allotted to Democratic candidates (T. 13676-85). Finally, a complete summary from the station's logs covering the general period of the 1944 Presidential Campaign (August 1 - November 7, 1944) discloses that KMPC, in limiting its showing on requests for political time to merely those requests involving specific candidates, attempted to conceal further the true picture of KMPC's scheduling of political broadcasts during that campaign. This summary from the logs follows: (FCC Ex. 285 for ident.)

(August 1 - November 7, 1944)

	<u>No. of Programs</u>	<u>Total Broadcast Time</u>
By Republican Candidates	40	19 Hrs. 50 Min.
On Behalf of Republican Candidates	<u>95</u>	<u>26 Hrs. 13 Min.</u>
Total	135	46 Hrs. 3 Min.
By Democratic Candidates	4	2 Hrs. 5 Min.
On Behalf of Democratic Candidates	<u>19</u>	<u>9 Hrs. 0 Min.</u>
Total	23	11 Hrs. 5 Min.

288. Testimony of applicants' witness concerning the circumstances surrounding the preparation and submittal of the political broadcast information to the Commission in September 1948 can only be construed as a feeble attempt to cover up the deliberateness of applicant's attempt to deceive the Commission. John E. Baird, KMPC Program

Supervisor, testified that in April 1948 when accusations against the station first appeared in the press, he was requested ^{1/} to compile a study of requests for time for political broadcasts on KMPC to determine whether there was any basis to the published accusations and also to have available information for Commission investigators who were at KMPC at that time. In making his compilation, Baird said, he used the station's "political folders" which contained records of inquiries for political broadcast time (T. 13617-9). Baird first insisted in his testimony that the compilation submitted to the Commission regarding requests for time by or on behalf of specific candidates was the only compilation he prepared or had knowledge of (T. 13712). However, when confronted with his own handwritten notations on requests for time from political groups and committees without reference to specific candidates (T. 14, 234, FCC Ex. 171), Baird was then able to recall that, in making the study, he sorted out the requests for political time into three groups: Requests by or on behalf of specific candidates; requests by political committees where no specific candidates were mentioned; and requests from individuals or groups supporting or opposing certain local and State referenda on propositions and bills (T.14236). Only the first of these lists, i.e., requests involving specific candidates, was submitted to the Commission in September 1948 (FCC Ex. 169). Why the information contained in the two

1/ Baird could not recall whether Reynolds or Clair Stout (KMPC Counsel) made the request (T. 13743).

remaining lists was not submitted to the Commission, Baird was unable to say. Although all three lists were typed for him by Miss Geraghty (Reynolds' secretary) at the same time, Baird stated that he received back from her only the typed candidate list. What happened to the other two lists after he supplied the information to Miss Geraghty for typing, Baird said he did not know (T. 14236). Applicant offered no further explanation of the missing lists.

289. The significance of the missing list containing data on requests for time by political committees becomes evident when the overwhelmingly disproportionate amount of time granted by the station to Republican groups and committees as contrasted with Democratic groups and committees is considered (*supra* p. 172).

290. Applicants' attempt at deception of the Commission was not merely confined to suppression of the listing of requests for time by political committees, however. Mr. Baird's testimony with respect to the preparation of the showing made to the Commission on political candidates is equally revealing. Baird's source material for the preparation of the candidate listing contained a request for political time dated September 1944 from the Republicans of California which showed that as a result of such request a total of 216 spot announcements and fifty-one half hour programs had been scheduled for broadcast with "time to be allocated by the Committee featuring broadcasts and re-broadcasts of Governors Dewey, Bricker, Warren - and regular

schedules for Rupert Hughes and Senator O'Daniel - scheduled under Democrats for Dewey and/or Republicans of California" (FCC Ex. 171, p. 1). It was Baird's testimony that although he saw this request when he made his compilation, he did not include the data contained in it in his study of political time relating to candidates because he regarded this particular request in the nature of an opening inquiry in the campaign and that he believed there would be other types of forms in his source material which would be more specific as to broadcasts scheduled (T. 14250-1). Baird's testimony on this point is clearly false. The form in question (KMPC's standard "Political Record" form) was exactly the same as all of the others he did use in making his compilation (T. 14207-9). He was unable to identify any different type form that he used as the basis for other entries in his compilation (T. 14205-7). The information provided on the form as to broadcasts scheduled was just as specific as in the case of many other forms which he used (FCC Ex. 171, pp. 41, 67, 215, 216, 227).^{1/}

291. More fundamentally, the information provided on the form in question, (namely, that over 25 hours of program time had been scheduled for broadcast by the station including broadcasts and re-broadcasts of the Republican candidates for President and Vice-President) would have been of such basic importance to any person seeking to make an objective compilation, that

further investigation

^{1/} Baird was not at all reluctant to list a request for time on behalf of Dewey as "Not Confirmed by Agency" (supra p. 170) despite the fact that the form he used for this listing contained no information concerning the disposition of such request (FCC Ex. 171, p. 26). He stated he assumed that it was not confirmed by the agency (T. 14191-4).

of whether the scheduled broadcasts had actually been made would have been a matter of common sense if any doubt existed concerning the item. Baird said he made no further investigation (T. 14251). ^{1/} In light of the above and the further fact that the amount of time involved in this one request form was greater than the total amount of time compiled by him for all candidates of all political groups over the entire four year period (25 1/2 hours against a total of 19 hours and 10 minutes for all candidates (FCC Ex. 171, 169), Baird's explanation for excluding the item can only be construed as a feeble attempt of a desperate man to rationalize an ill-conceived action - an action which had as its only purpose deliberate misrepresentation of the fact.

292. The deception involved in the exclusion of the Republican item from the information submitted is further heightened by the fact that Baird was unable to produce any request forms in his source material which he used as the basis for two entries of time, one for seven minutes and one for forty minutes, granted to the 1944 Democratic presidential candidate, former President Roosevelt (T. 13676-85). He denied he used the program logs in any way as source material (T. 13779). The KMPC program logs showed the seven minute program was carried on October 17, 1944 and the forty minute program on October 2, 1944; in each case the program was listed as sustaining (FCC Ex. 173). Baird agreed

^{1/} Either the program logs or the account books could have been consulted. The logs for 1944 in this period show that Baird himself had announced or had made the log entries concerning a large number of the political broadcasts which he failed to include in the report to the Commission (T. 13762 et seq.)

that if these two Roosevelt broadcasts were in fact, sustaining, there would be no request forms covering them in the source material he used (T. 15679). Applicant made no showing that the two broadcasts in question were not, in fact, sustaining.^{1/} Further, one of the two Roosevelt broadcasts, of forty minutes duration, was entered in the program logs as follows: October 2, 1944, 10:05 - 11:25 p.m., Re-broadcasts of President Roosevelt and Governor Dewey's Talks, Announcer: Baird (FCC Ex. 173). Since Baird was unable to produce any source for his inclusion of this Roosevelt broadcast in his compilation on candidate time, (T. 13676-85) it must be concluded that the program log was used as the source for the Roosevelt entry and that the associated program log listing of Governor Dewey's talk was deliberately ignored.

293. Other portions of Baird's testimony can only lend added weight to the above construction of applicants' motives with respect to this matter. It was Baird's testimony that he first became aware of errors in the political broadcast compilation in March 1949, approximately six months after it was submitted.

1/ The seven minute Roosevelt program on October 17, 1944 was a radio address opening the National War Fund Drive, according to The Public Papers and Addresses of Franklin D. Roosevelt, stipulation by counsel, (T. 4655-7). This same source contained no address by former President Roosevelt on or about October 2, 1944 which could be identified as the forty minute Roosevelt broadcast listed in the KMPC logs on that date. In the light of the foregoing, it must be found that no speech by Roosevelt was broadcast on October 2, 1944 and that the log entry to this effect was in error.

to the Commission. At that time acting on the suggestion of applicants' counsel Mr. Stout, to check the information, Baird said he referred to the station program logs and discovered that the information submitted was inaccurate (T. 13621). He then advised Mr. Stout of the errors (T. 13625). About that time Commission investigators were at KMPC and working with Mr. Baird (T. 13620-1). Although Baird stated he assumed that they were looking into the errors on the political broadcast exhibit, he said nothing to them about such errors because he "didn't think it was necessary" (T. 13649). Further, he didn't correct or revise the information after learning of the errors, because, he stated, he was advised by station counsel (Mr. Stout) that it was unnecessary since the formal application for transfer of control of the stations to a trusteeship had been filed with the Commission (T. 13636).^{1/} During the eighteen month period between March 1949 when he informed Stout of the errors and some two or three weeks prior to his testimony on October 12, 1950, when he talked with applicants' counsel (Mr. Burns) about

^{1/} Although applicants' counsel asserted that he would call Mr. Stout and show through him that Commission counsel was aware of these errors in March 1949 (T. 1474-7) Mr. Stout was never called to the witness stand. Indeed if Mr. Baird's assertion as to Mr. Stout's knowledge is to be believed he raised a serious question with respect to counsel's integrity and obligation for forthright dealings with the Commission. Mr. Stout's firm has continued to represent Station KMPC in these proceedings from the very beginning, and at no time was any step taken by them to correct the false impression left by the document filed with the Commission in September of 1948. In this connection, it should be pointed out that the record shows that Mr. Stout was present at Station KMPC during the period immediately prior to the visit of the Commission's investigators in April of 1948 (T. 507-8).

then, Baird testified that he talked to no one about the errors (T. 13626-7). He did not tell Reynolds about them at any time, he stated, because he "presumed" Mr. Stout told Reynolds (T. 13626) and further that he did not feel any obligation to notify Reynolds of the errors (T. 13637). Even after Reynolds' testimony in June 1950 developed on the record the fact that errors existed in the information, Baird said he did not talk to Reynolds about them; nor, said Baird, did Reynolds ever mention to him that he (Reynolds) testified that Baird prepared the material and that, therefore, Baird would be better prepared to answer questions concerning its preparation and inaccuracy (T. 13627, 1397). Indeed, Baird in October 1950 made the incredible assertion that although he had conversations with Reynolds about Reynolds' testimony in the hearing, he knew nothing about Reynolds' earlier testimony in June 1950 concerning the errors (T. 13629-30); and that he was not aware that the errors had become an issue in the hearing until he testified on October 13, 1950 (T. 13817). 1/

294. The finding is compelling that the statement of political time submitted to the Commission by the applicants in September of 1948 was submitted with clear and deliberate intent

1/ On June 27, 1950 when Mr. Reynolds was on the stand he was requested by Commission counsel to contact Mr. Baird to obtain certain information concerning the accuracy of a particular entry contained in the political broadcast information prepared by Baird. After the noon recess on that day, Reynolds testified that he attempted to reach Baird at the station during the lunch hour period but was unable to do so (T. 1419).

to deceive and mislead the Commission into a belief that the station's political programming was impartial. The grossness of the inaccuracy in the document involved in and of itself refutes any possibility of inadvertent error. Any such possibility is overwhelmingly refuted by the evasions, contradictions, false statements, and complete lack of candor in the testimony of the witness presented by the applicants to "take the heat" for its preparation. The sole purpose of this deception was to dissuade the Commission from proceeding with further action in respect of the charges which were pending before the Commission at that time.

6. Report from Congress and
Similar Broadcasts.

295. Mr. Richards personally made arrangements with the Republican National Committee in 1947 for transcriptions of a series of programs on KMPC described in the station logs as "Report from Congress" (T. 5366, 6399, 971). The logs show a series of transcribed programs under this heading which were broadcast on KMPC at various dates in 1947 in the months of June, July and August. Although Section 3.181 of the Commission's Rules requires that the logs show the nature of the program, such as "music, drama, speech, etc.", with the name or title thereof, the logs failed to show the nature of these programs except the name "Report from Congress", or, in many instances, the names of the speakers (FCC Ex. 275, T. 6402 et seq.). More serious is the fact that the cue and announce sheets for these programs which were available (FCC Ex. 348-355) show that it was not announced that these programs were furnished by the Republican National Executive Committee as required by Section 317 of the Communications Act and Sec. 3.189 of the Commission's Rules.

296. Repeated requests were made by Commission counsel for the names of the speakers and the scripts of these programs, and a subpoena was issued to the manager of KMPC, Reynolds, to produce among other things, the scripts or

transcriptions of these programs (T. 978, 1249, 1596, 3977). Despite these requests, no scripts were produced for a single program designated in the logs as Report from Congress (T. 6392). A list was produced by Reynolds (T. 6388) after numerous objections (T. 978, 1249) to the preparation of such a list had been made by applicants' counsel, purporting to be the names of the speakers on this series of programs, with the dates on which broadcasts by these speakers were allegedly given over KMPC.^{1/} In addition cue and announce sheets were produced pursuant to the subpoena with respect to 8 of the Report from Congress series (FCC Ex. 348-355).

297. Although much of the information requested relative to this series of programs was not produced, the record contains evidence upon which it must be found that this series of programs was initiated and promoted by Mr. Richards in furtherance of the policies laid down by him for discrimination in the station's programming in favor of particular political personalities and causes (T. 3976). Thus, the idea of the Report from Congress series originated in a conversation between Mr. Richards and Ed Ingle, Radio Director of the Republican National Committee. Mr. Richards personally made the arrangements with Mr. Ingle for

^{1/} This list did not coincide in all respects with the dates shown in the logs for Report from Congress programs.

the furnishing of transcriptions of speeches of Congressmen to use on this series (T. 5400). No similar arrangements for speeches in this series were made with the Democratic National Committee (T. 5266). Every one of the speakers on this series of programs were Republican members of the Congress. All of the programs were carried on a sustaining basis (T. 972 FCC Ex. 275). With a possible single exception described below, the record fails to show that any sustaining programs were broadcast, during the period that this series was carried, in which Democratic members of the 80th Congress were the speakers.^{1/}

In the instance where there is any evidence of record with respect to the subject matter of the speech given on the Report from Congress series, the subject matter was controversial (T. 3973). In such instance, the viewpoint expressed on the controversial subject, must be found to have been in accord with the philosophy expressed in the personal views which Mr. Richards instructed be reflected in the programming of his stations. In no instance, did the applicants show that any speech on the Report from Congress series was either non-controversial or reflected a viewpoint opposite to those which Mr. Richards instructed to be furthered in the programming of the station.

^{1/} The list, above referred to, supplied by Reynolds included programs in which President Truman and Senator Robert A. Taft, Republican Senator from Ohio, spoke on the subject of the Taft-Hartley Act on June 17, 1947. These programs cannot be included because logs for that day do not show them to be in the Report from Congress series and for the further reason that these speeches were rebroadcasts of nationwide network broadcasts of these speeches. (FCC Ex. 275, T. 6403).

298. The first speaker on the Report from Congress series was Charles Halleck, Republican Congressman from Indiana and Majority Leader of the House of Representatives in the 80th Congress (see Congressional Directory for June 1947, p. 265). A transcription of his speech was broadcast on KMPC on June 27, 1947 at 9:38 P. M. and repeated the next day at 4:00 P. M. (FCC Ex. 349). The subject matter of this speech is not shown in the record. Congressman Halleck spoke on this series again on July 18 and again on July 19, 1947 (FCC Ex. 275, 349, 391, 392).

299. Chester Renier had the responsibility of listening to transcriptions received from Mr. Reynolds or from an agency in Washington (The Republican National Committee) and determining whether or not it was something that could be broadcast (T. 3973, 4042, 5400). On one occasion Mr. Renier received a transcription for this program made by Congressman Halleck which Mr. Renier determined contained a great deal of Republican propaganda. Halleck's speech discussed the accomplishments of the 80th Congress (T. 5400) and it is shown by the cue and announce sheet for a Congressman Halleck speech on June 28, 1947 (FCC Ex. 349) that it was the same speech as Renier and Roberts referred to. Renier requested that Mr. Roberts listen to the transcription and thought that it presented only one point of view. The transcription was then played for Mr. Reynolds who agreed with both Roberts and Renier. Mr. Richards was called

and told of the situation and he ordered the transcription brought to his house. He listened to the transcription and said "that he didn't hear anything in it that wasn't true and that it should be broadcast". The transcription was included in the program "Report from Congress" (T. 3973, 5400). The broadcast by Halleck on June 28, 1947, was preceded and followed by announcements designed to play the speech up in a setting having a fully partisan flavor (FCC Ex. 349). The cue and announce sheet for this broadcast reads as follows:

"4 pm

"SPECIAL INSTRUCTIONS FOR 4:00 P.M. SATURDAY, JUNE 28:

NOTE TO ANNCR: THIS IS TO BE READ WITH ENTHUSIASM.

ANNCR: We now present, by special request, a repeat broadcast of "A Report from Congress" with music by Fred Waring and his famous Glee Club and a special transcribed message for KETC listeners from Congressman Charles A. Halleck, majority leader in the House of Representatives. Fred Waring and his Glee Club open the program with a very Beautiful number, "The Time Is Now".^{1/}

MUSIC: THE TIME IS NOW.

ANNCR: Yes, the Time is Now..... time for all Americans

^{1/} It is to be noted that in connection with the Rupert Hughes series of programs carried on the stations in connection with the political campaign of 1944, Mr. G. A. Richards wrote Fred Waring, an orchestra leader, asking his permission to use the tune "The Time Is Now" on the Rupert Hughes programs. (FCC Ex. 110)

"to focus their attention on the affairs of our country.... to be alert, courageous and fully informed... now a special message from a man who's in a position to know just what's going on in Congress and can report on what has been accomplished during the past six months. Ladies and gentlemen, the majority leader of the House of Representatives, Congressman Charles A. Halleck of Indiana.

"ET: HALLECK REPORT FROM CONGRESS

ANNCR: You have been listening to Congressman Charles A. Halleck, majority leader of the House of Representatives, and now Fred Waring and his Glee Club in a salute to "America the Beautiful."

"MUSIC: AMERICA THE BEAUTIFUL

ANNCR: You have been listening to a Report from Congress, featuring a special transcribed message from Congressman Charles A. Halleck, majority leader in the House of Representatives. Congressman Halleck has Reported on what has been accomplished by Congress during the past six months. The program has featured the beautiful transcribed music of Fred Waring and his famous Glee Club. This is KMPC, dial 710, Los Angeles..."

300. Mr. Richards did not say anything to Mr. Renier about securing a speaker for the opposing point of view to that of Mr. Halleck (T. 3975). When Mr. Roberts talked to Richards

about a program presenting the other side of the issue from that taken by Mr. Halleck, Richards told him: "Well, if they want time let them ask for it" (T. 5411). Without Mr. Richards' knowledge, Mr. Roberts told one of the men in the newsroom to call the attention of the local Democratic organization to this situation. They requested an opportunity to answer Mr. Halleck and it was not until several weeks later, on September 27, 1947, that Chet Hollifield, Democratic Congressman, was interviewed by Mr. Roberts in a program shown by the logs as a political sustaining program.^{1/} (FCC Ex. 275, 397, T. 5411).

301. In a letter from Edward T. Ingle, Director of Radio for the Republican National Committee, to Mr. Richards dated July 11, 1947 (FCC Ex. 215) Mr. Ingle referred to the fact that Congressman Jackson's platter was on the way by air express, that he had just written Hinshaw's script, and Paulson's letter would be coming along shortly. These men were all Republican congressmen from California. On this letter in Mr. Renier's handwriting, is a notation that Mr. Jackson's transcription had arrived. There is also written on the letter in Mr. Richards' handwriting:

"Bob, Clute:

See that we get these records on and boosted
if good write Ingle."

301a. Fred Hartley, Republican Congressman from New Jersey and co-author of the Taft-Hartley Act, spoke, by transcription,

^{1/} The Hollifield program was carried at time when Mr. Richards was away from the Los Angeles area. Mr. Richards was away from August 18 to October 1, 1947.

on the Report from Congress series on July 12, 1947^{1/}
(FCC Ex. 389). Congressman Hartley also spoke by transcription
on KMPC on a sustaining broadcast October 20, 1947 (FCC Ex. 275,
399).

302. Richard Nixon, Republican Congressman from California
in the 80th Congress, spoke by electrical transcription on the
Report from Congress series on July 20, 1947 (T. 6389 FCC Ex.
351).

303. Donald L. Jackson, Republican Congressman from
California in the 80th Congress, spoke by electrical transcription
on the Report from Congress series on July 25, 1947 (T. 6389,
FCC Ex. 352).

304. Morris Poulson, Republican Congressman from California
in the 80th Congress, spoke on the Report from Congress series on
July 26, 1947. (T. 6389, FCC Ex. 353).

305. John Phillips, Republican Congressman from California,
and Senator Kenneth S. Wherry, Republican Senator from Nebraska
in the 80th Congress spoke by electrical transcription on the
Report from Congress series on August 8, 1947 (T. 6389, FCC
Ex. 354).

^{1/} The Taft-Hartley Act was vetoed by President Truman
on June 20, 1947, and enacted by Congress over his
veto on June 23, 1947. Public Law 101 80th Congress.

306. Joseph W. Martin, Republican Congressman from Massachusetts and Speaker of the House of Representatives in the 80th Congress, spoke by electrical transcription on August 9, 1947, the day after the broadcasts by Congressman Phillips and Senator Wherry (T. 6389, FCC Ex. 355).

307. There were 23 Congressmen from California in the 80th Congress (Congressional Directory for June 1947, p. 145). Fourteen of these Congressmen were Republicans, and nine were Democrats. One of the California Senators (Senator William Knowland) was a Republican, and the other (Senator Sheridan Downey) was a Democrat. In the case of Senator Knowland, Mr. Richards rejected a recording of a speech by Senator Knowland offered by the Radio Director of the Republican National Committee because Senator Knowland had supported Lilienthal for confirmation to the Atomic Energy Commission (T. 5412-5419). Mr. Richards stated that he was "not anxious (to) work with Mr. Knowland on anything presently". (FCC Ex. 266) From the Los Angeles area

(Cong. Dists. 12-22), the location of Station KMPC, seven of the California Congressmen were Republicans (Nixon, Poulsen, McDonough, Jackson, Bradley, Hinshaw, Phillips) and three were Democrats (Douglass, King, Holifield). Thus, while time was afforded on a sustaining basis for the speeches of four California Congressmen, on Report from Congress, in no case was there any time offered on this series for a speech by a Democratic Congressman from California. In the one case, where sustaining time was given to a Democratic Congressman, the time was not afforded on the station's initiative as in the case of the Republican speeches but was given only in response to a request for time made by the Democratic Committee of California after they were advised of the political nature of the speech of Congressman Halleck when Richards had insisted

^{1/}
be broadcast. Moreover, it was put on on a date when Mr. Richards was out of town and was therefore not aware of the broadcast.

308. The policy in this respect, as laid down by Richards, is graphically shown in FCC Ex. 29 which was an undated script of an interview on KMPC with Congressman Jackson. As was pointed out above Congressman Jackson spoke on Report from Congress on July 25, 1947. On the face of the script, Mr. Richards wrote the following order to Clete Roberts:

"Clete. Lets know all our Congressmen.
"Skip the Gahagans".

The reference to the "Gahagans" was to Helen Gahagan Douglas, Congresswoman from the Los Angeles area (T. 5362).

309. Other programs of a similar nature were broadcast on KMPC. An indication of this fact is revealed by a letter written by Congressman Donald L. Jackson to Richards dated January 22, 1948 (FCC Ex. 219) in which Jackson informed Richards of a transcription he had cut for the Republican National Committee and air-expressed to Richards. Jackson explained that a case had been built against Brigadier General Wallace Graham, personal physician to the President, with respect to his grain speculation and included in the transcription. An additional platter which George Cushing had made for WJR was also air-expressed to John Patt (FCC Ex. 233, telegram Ingle to Patt, dated June 27, 1947) in which Congressman Halleck praised the accomplishments

^{1/} No evidence whatever was submitted by applicants' counsel that any Democratic Congressman was ever invited to speak on KMPC either in the Report from Congress series or on any other sustaining time.

of the (80th) Congress. The fact that transcribed programs additional to those on Report from Congress, furnished to Mr. Richards by the Republican National Executive Committee, were actually broadcast is shown by the telegram Cleve Roberts sent to Ed Ingle confirming the reception of a transcription of Congressmen Hartley-Dirksen (FCC Ex. 264, 265) and the station program log for October 20, 1947, showing that a scheduled program was cancelled in order to broadcast this transcription at 11:00 p.m. (FCC Ex. 399).

310. In handling these transcribed programs, John Baird, the chief announcer in giving his instructions to announcers concerning the material to precede and follow these programs, did not tell them that an announcement that the transcription was furnished by such and such a party or group, should be made. He claimed that he instructed announcers that in those instances in which political controversial matters were discussed that they should announce the fact that the broadcast was presented under the auspices of such party or political committee (T. 13971). The announce sheet quoted above (supra pp. 185-186), relating to the Halleck broadcast (FCC Ex. 349), shows the contrary.

7. Other Programming

311. The record discloses a number of other instances of programming reflecting the policies laid down by Richards for partisan use of the facilities of the stations controlled by him.

312. It has already been pointed out that in a letter to Fitzpatrick, Richards referred to the assistance given by KMPC to Governor Earl Warren of California in connection with his candidacy for Governor of California in 1943 (FCC Ex. 45).

313. In a letter to Fitzpatrick dated July 1, 1944, Richards wrote: "Lets keep right behind Howard Coffin and do everything, and I really mean do everything we can, to help put him across. Let me know, please, what you are doing." (FCC Ex. 77) Coffin was the Republican candidate for Congress (T. 16, 659).

314. In a telegram (FCC Ex. 253) sent by Mr. Richards to Clete Roberts from Detroit, dated August 28, 1947, Richards instructed Roberts to give the Republican Rally plenty of publicity. No such instructions were ever received by Roberts from Richards with respect to any similar activities of the Democratic Party (T. 5275, 5276).

315. On the contrary, at a dinner at Perino's Restaurant in Los Angeles on January 28, 1948, at which the top officials of his three stations were present, Richards urged that elaborate plans be made for extensive coverage of the forthcoming Republican National Convention by the three stations. When the subject of coverage of the Democratic National Convention was brought up, Mr. Richards vehemently opposed the use of his stations for such purpose. He stated that he wouldn't have those "damn Communists" using his radio stations to

got back in office (T. 5249). Significantly, none of the officials present at this affair who were called as witnesses, denied that Richards had so expressed himself. Reynolds, station manager of KMPC, though present at the dinner, could not recall any details of discussions concerning these political conventions (T. 176). Patt, who was manager of WGAR at that time, was present at the dinner (T. 232). He appeared as a witness for the applicants, having become president of the three stations during the course of the hearings, but was not even asked a single question by applicants' counsel concerning this incident. Wixson, a witness for applicants, also present at the dinner, being the sales manager of KMPC at that time, could recall no details as to this incident (T. 233, 11803).

316. The favoritism shown to Republican personalities and the Republican cause was likewise reflected in the manner in which KMPC treated other political get-togethers in its programming. Thus, very active efforts were made by Mr. Richards and Mr. Reynolds in connection with the radio coverage given to the Republican Party's Lincoln Day dinner and the speech of Governor Dewey on that occasion (FCC Ex. 220; T. 1720 et seq). The speech was carried live on KMPC on February 12, 1948 simultaneously with its broadcast on the network (T. 1717). The speech was rebroadcast by transcription on KMPC on the next day (T. 1720). The logs on those days show 13 "plugs" urging the radio audience to listen to the Dewey speech (T. 1720 et seq). In addition, the forthcoming broadcast of the speech by KMPC was advertised in the newspapers (FCC Ex. 220). **This speech was decidedly political in character (FCC Ex. 373).** In marked contrast was the treatment given on KMPC to the corresponding event held by the Democratic Party shortly

thereafter, the Jefferson-Jackson Day dinner. President Truman spoke on that occasion. There were no prior "plugs" for his speech on KMPC. The record shows no advertising in the newspapers of the forthcoming broadcast of the speech by KMPC. The speech was not carried live off the network but was broadcast by transcription. The speech was broadcast only once (T. 1725).

317. In line with the policies he laid down in his various directives, Richards would see to it that the station celebrated the birthdays of particular individuals who were personally favored by him or who represented his own political philosophy (T. 3986). Thus in a memorandum from Richards to the managers of his three stations dated February 28, 1947 (FCC Ex. 184, T. 1575), Richards called the attention of his three managers to the fact that March 24th was Tom Dewey's 45th birthday...He said, "Let's plan on a lot of plugs for that day and before. He is doing a whale of a job in New York and is one of the leading candidates for the Presidential spot in '48." A birthday program for Dewey was carried in 1947. No such program was shown to have been ordered or carried for any potential Democratic candidate.

318. As has been pointed out, an elaborate program was broadcast at Mr. Richards' direction to commemorate the birthday of General MacArthur in 1948, at the time when the General was a potential candidate for the Presidency. This program was part of the campaign to advance MacArthur's candidacy. There is no evidence in the record of any similar instruction given by Richards with respect to any potential Democratic candidate.^{1/} Other birthdays celebrated were those of Harvey Firestone and Eddie Rickenbacker (T. 3984-3985).

^{1/} The logs of KMPC show that a program was broadcast in commemoration of President Truman's birthday in 1945, shortly after his assumption of office (T. 2130). There was no evidence that this program was carried pursuant to any order, direction or request of Mr. Richards. It should be noted from FCC Ex. 204 that this was at a time when President Truman was favored, or at least, not disapproved by Mr. Richards. Moreover, this was at a time when the next Presidential elections were three years away. No subsequent birthday of President Truman was shown to have been commemorated on KMPC.

319. One of the clearest examples of Mr. Richards' complete indifference to any responsibility to provide opportunity for expression of both sides of controversial public questions, is provided in an incident having to do with the confirmation of David Lilienthal as Chairman of the Atomic Energy Commission. Mr. Richards' instructions and attitudes with respect to the treatment of this subject in newscasts have been set forth above (pp. 34-35). The incident to be described relates to another type of program.

320. On April 3, 1947, there was scheduled for action by the U. S. Senate a vote on a motion by Senator Bricker to recommit the nomination of Lilienthal to the Senate Committee which had previously reported out the nomination favorably. On the day before this scheduled action, Mr. Richards contacted Clete Roberts, Director of Public Affairs at KMPC, and instructed him to prepare a speech opposing the Lilienthal nomination, to be broadcast on that evening (April 2) by Adolph Menjou, a well known motion picture actor with whom Mr. Richards had made arrangements for delivering the speech. In the short time available, Roberts, assisted by Lewin, prepared a speech by piecing together portions of speeches previously made by Republican Senators John Bricker and Styles Bridges, prefaced by reference to the forthcoming vote in the Senate, and concluding with a strong appeal to listeners to urge their Congressmen to reject Lilienthal's confirmation. A tape recorder was taken to Menjou's home and a recording of the speech was made by Menjou which was broadcast on Station KMPC at 10:30 p.m. on April 2, 1947 (FCC Ex. 259, 27). The quoted remarks of Senators Bricker and

Bridges included in the broadcast contained strong criticism of the Lilienthal appointment and the Menjou speech concluded as follows:

"Right now each and every one of you should take the time to wire, phone, or write your Congressman expressing to him your disapproval of the nomination of David Lilienthal to this important position; a position which will place him in control of the Nation's atomic secrets. Tomorrow may be too late! Wire your Congressman now. Do what you can to keep the control of the atom where it belongs." (FCC Ex. 27)

No effort was made to carry on the station any broadcast designed to balance the Menjou broadcast or to express the point of view favoring Lilienthal's confirmation. Aside from the independent responsibility, under the circumstances, of Mr. Richards to have seen to it that prior arrangements were made for such a balancing, even a demand from outside parties for time on KMPC to express the opposite viewpoint would have been futile and completely ineffective in view of the shortness of time between the Menjou broadcast and the scheduled vote in the Senate.

321. As a result of this broadcast, Mr. Richards commanded Cleve Roberts in a note written by him late in the evening of April 2 in which he said:

"Nice going on Menjou--Paul Severe has nothing on you for last minute action."

"The W.U. 1/ are really busy--I checked several times.

"Hope the wires do some good. I think they will. Knowland 2/ won't know what hit him. He is really taking a beating and rightfully so. Here is my wire. G.A.R." (FCC Ex. 260)

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- 1/ W.U. has reference to the Western Union Telegraph Company.
2/ Senator William K. Knowland of California who had previously indicated his support of Lilienthal's confirmation.

F. THE QUESTION OF WHETHER RICHARDS' EXPRESSIONS
AND COMMUNICATIONS WERE ORDERS, DIRECTIVES
OR INSTRUCTIONS.

322. Mr. Richards did not come to the witness stand despite the efforts of the General Counsel to secure his appearance. His counsel contended repeatedly that the various expressions and communications testified to by many witnesses and shown in many exhibits, were not orders, directives or instructions. This contention goes of course to Mr. Richards' intentions and to the understanding which his officers and employees had of his intentions in his various written and oral communications.

323. Mr. Richards failed to take advantage of the opportunity to tell the Commission, under oath, what his intentions were, under circumstances in which the sincerity or insincerity of any denials of his intent could have been judged in the light of his demeanor under oath and the nature of his answers to questions. But the intent that his many oral and written communications to officers and employees were to be orders, directives and instructions is none the less plain from the evidence of record.

324. His intent is shown by the persistence of his calls to employees, and by his manner of expression, by the imperative tone in his written communications. It is plain from the extent to which the

programming at KMPC and WJR reflected what Richards stated in his communications. It is plain from his expressions of indifference to the danger of possible loss of his licenses (T. 5525). It is plain from the tone of acquiescence in the letters to Richards of the one time top official of WJR, Fitzpatrick (which the General Counsel contends were improperly excluded) (e.g., FCC Ex. 79, 106, 199). Last but not least, it is plain from the fact that an employee's refusal to comply with Richards' oral and written communications led either to his discharge or to a situation whereby the employee was forced to resign. The record discloses several instances of this.

1. Consequences Of Failure Or
Refusal To Obey Richards

325. During the last month that Charles Teas was employed at KMPC he lost interest in his job and became progressively more disgusted with the instructions which he received from Mr. Richards. During this period of time Teas stopped following Mr. Richards' instructions because it didn't make any difference to him whether he remained at or left the station. One morning Chester Renier, the Program Director, told Teas, "The boss said to let you go." No reason was given to the witness why he was fired (T. 6554).

326. On one occasion Walter Carle brought Arch Hall an item of a couple of paragraphs to read following President Roosevelt's speech. Mr. Carle put the item on a nail and

told Hall that it was Mr. Richards' desire that he read the item after the speech. Hall determined that the item had nothing to do with news and did not read it. The following day Carle inquired of Hall why he didn't use the article and Hall said that he had forgotten about it. That evening Hall used the item after rewriting it and toning it down. Following the broadcast Mr. Richards telephoned Hall and said, "Arch, why didn't you read that article exactly like I told you to read it?" Hall explained why he did not read it. Mr. Richards became quite angry and told Hall that he must do exactly as he was told. Richards inquired of Hall: "Who are you going to vote for?" Hall replied that he had not made up his mind. Richards replied that Hall sounded like a "God damned Roosevelt lover," and hung up. A day or two later Hall arrived at the station to prepare his five o'clock newscast and another man was sitting at his desk. Thereupon Hall left the station. Some time later Reynolds told Hall that he was not satisfactory in the newsroom and would be transferred to another department. During the conversation that ensued Reynolds and Hall agreed to call it quits. (T. 2936-2940).

327. On one occasion Richards ordered Tom Latimer to read verbatim an editorial or feature article by the Financial Editor of the Los Angeles Times on his next

newscast in addition to some other newspaper items.

Latimer used the stories but did not read the Financial

Editor's feature article. Shortly after that, he was taken out of the newsroom and put back on the announcing staff

(T. 2560). At that time Latimer had a program registered

in his name. The program lasted three months and was then

dropped by its sponsor. Two days later Latimer was dis-

charged for no reason except "an economy wave" (T. 2561).

There was testimony offered in the nature of offer of proof

that after about six months employment at KMPC, Latimer

began to have severe migraine headaches and that he was

advised by his doctor that the only way he could cure his

headaches was to leave the employ of KMPC (T. 2574). The

occasion when Richards ordered Latimer to read this

editorial on his newscast was the first time that that had

occurred. The witness stated with respect to this

editorial,

"I objected to it and refused to do it.

Now I am trying to make it clear that that was the only reason I would do it. It was a matter of principle with me. I was a newsman, and my job was to report the news from an unbiased viewpoint with a fair view on both sides to be given. That is what I strove to do in every case. I leaned over and would give things that I objected to doing in order to keep my job with KMPC, and in order to establish myself as a radio newsman out here.....I was attempting, however, to think about my own personal views, and I went overboard as many times

as I could, but this one night when he ordered me to read an editorial on a straight newscast regarding those comments I had to draw the line, and that is what I did, knowing at the time that inevitably that would mean the end of my job with KMPC. My own personal beliefs and opinions as a newsman and as a conscientious newsman meant more to me than any job with KMPC ever did. After all I had been going through these 10 months, I simply reached a limit as did many others who worked there, both before me and since" (T. 2624).

328. On January 26, 1948, Cleve Roberts was asked to prepare a factual broadcast on MacArthur to be included in a program planned for Station KMPC later that evening, saluting General MacArthur on his birthday. Roberts prepared a short factual statement which on the whole was laudatory though it did contain references to a quiver or tremor which he had noticed in General MacArthur's hand at the time of a recent interview. This statement was a condensation of a previous broadcast, referred to above, (supra p. 60) in which Roberts had made the statement concerning this quiver which Mr. Richards had forbidden Roberts ever to broadcast again. Roberts, despite Richards' order, included this statement because he knew that Mr. Richards would be attending a dinner at Perino's Restaurant given for the officials of the three stations at the time his statement was to be broadcast. He, therefore, took a calculated risk that his statement would not be heard by Mr. Richards. The item was tape recorded and was scheduled to be broadcast during the

progress of the dinner attended by the executives of the three Richards' stations at Perino's Restaurant on January 28, 1948. Roberts had not foreseen that during the course of the dinner Mr. Richards would order a radio placed in the center of the table for the purpose of listening to this special broadcast. The program progressed to the point of Roberts' broadcast. When his program reached the point at which he made the statement which was objectionable to Mr. Richards, Mr. Richards turned off the radio, and said to Roberts who was present at the dinner: "How many times have I told you not to say things like that?" (T. 5482-86)

328a. Following that dinner, Roberts heard nothing from Richards and had very little contact with Reynolds for several days. Finally Reynolds came to Roberts' office, closed the door, and said, "Clete, I have never been through such Hell in all my life as I have been through with Mr. Richards since you made that broadcast at Perino's Mr. Richards feels you have defied him." Roberts replied, "As a matter of fact, Bob, I have." There was discussion concerning Roberts apologizing to Mr. Richards, which Roberts refused to do, and Roberts then said, "Well maybe I can solve this problem by submitting my resignation." Reynolds told Roberts, "No. You are doing a wonderful job. We want you to stay on." A few days later a luncheon that had been scheduled between an advertising agent, a station salesman and Roberts to discuss a new

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sponsor for Roberts' commentary program was cancelled, without notice to Roberts, shortly before noon. Roberts' picture had been placed on the cover of the station's program promotional material (FCC Ex. 270) which announced the new sponsorship of Roberts' program, and had been delivered to the post office on the evening of February 5 or the morning of February 6, the last day of Roberts' broadcast for his former sponsor. During the afternoon of February 6, Chester Renier told Roberts that the promotional material was being called back from the post office. Roberts called the advertising agent and asked him what had happened to the luncheon. He was told that the advertising agent did not want to become involved in his troubles since Roberts was no longer available for the program. Roberts then called Reynolds and asked him if he were "sitting in there trying to work up nerve to tell him something". Reynolds agreed to see Roberts later and in about a half hour called him into his office and told him that he had made a serious mistake; that Mr. Richards felt Roberts had defied him and that both he, Starrels, and Lewin were discharged (T. 5480-~~5503~~).

329. Reynolds gave a variety of reasons for the discharge of Roberts. These reasons were advanced for the purpose of disclaiming that Roberts was in fact discharged, upon orders from Richards, because of his unwillingness to comply with Mr. Richards' instructions regarding treatment of news. But each of these reasons were clearly disproven by the sequence of events above outlined, by other uncontradicted evidence of record, by the contradictions in Reynold's own testimony on this matter, and by the written admission of Mr. Reynolds himself in a memorandum, to be discussed shortly, which he addressed to Mr. Richards and Mr. Harry Wisner, then Assistant to the President of KMPC, WJR and WGAR.

330. Reynolds' testimony on this matter included the following statements:

- (a) Roberts was discharged because Reynolds had lost confidence in Roberts after the MacArthur broadcast described above (T. 346), because this incident was an evidence of calculated defiance of Mr. Richards (T. 321, 346), because the station had decided to economize in their operations by curtailing special events and dispensing with one or two news writers (T. 347) because he couldn't

be certain that Roberts would continue happy without special events activity, because he believed that Roberts had no intention of going along in the conduct of his work in a satisfactory manner, and because he felt that Roberts was not willing "to be a good company man" (T. 347).

- (b) The decision to fire Roberts was his own and not Mr. Richards' (T. 323), that he didn't know at what time he made up his mind to fire Roberts (T. 327) but thought it was the day of the discharge: that he talked to Richards about discharging Roberts before he had decided to discharge Roberts (T. 319, 320, 323); that Richards had nothing to do with Reynolds' decision to fire Roberts (T. 323).
- (c) According to Reynolds, at the time he discharged Roberts he told him that Roberts had made a mistake coming with the station; that he didn't wish to be cooperative and was unhappy about the situation;; that he would be happier on a large newspaper; that Roberts

was more interested in doing special events rather than supervising the news; that he had defied Mr. Richards; and that he wasn't a good "company man" (T. 321). There was no suggestion Roberts was fired for economy.

- (d) In a staff memorandum dated March 4, 1948 (FCC Ex. 4) Reynolds denied that Roberts, Lewin and Starrels were discharged "because of any differences in viewpoint in the treatment of the news", but stated they were discharged because "Mr. Roberts, desiring to work primarily on special events, represented an expense that was out of all proportion to our needs and our operation did not justify his retention or that of the other two men."

331. The record compels the finding that Roberts was discharged, by Mr. Richards' decision, because of his refusal or unwillingness to give unqualified obedience to Mr. Richards' instructions concerning the treatment of news. Thus Reynolds' own written admission, made in a memorandum to Mr. Richards and Harry Wismer, Assistant to the President of WJR, WCAR and KMPC, confirms this very fact (FCC Ex. 5). The memorandum was dated February 3, 1948,

three days before the day on which Roberts was discharged and in it Reynolds stated:

* * * * *

"Clete Roberts will submit his resignation or express a desire to continue with us by Thursday or Friday of this week. He understands thoroughly that he can do the latter only on the basis that he will go along 100% with company policies. These policies are:

- A. Do everything within our power to elect a new administration.
- B. Curtail special event operations.
- C. Dispense with at least one or possibly two writers.

My opinion is that he will resign."

332. While Reynolds denied that it was the company policy to "do everything within our power to elect a new administration", he stated that one reason for firing Roberts was that Roberts would not be a "good company man" (T. 347).

333. The record conclusively disproves the contention that economy reasons were in any way involved as a reason for the discharge. In a memorandum from Reynolds to Roberts dated March 13, 1947, (KMPC Ex. 37) Reynolds wrote:

"I have reviewed our news picture from a cost standpoint, however, and find that to date the department is costing approximately \$100 a week more than it was three months ago. Frankly, this increased cost is little enough taking into consideration the improved service which the department is giving under you"

334. In a memorandum from Reynolds to Roberts and other department heads dated March 26, 1947 (KMPC Ex. 39) Reynolds cautioned his staff against unnecessary expense; however he had a discussion with Roberts following this date and told

him he had not singled out the news department as being extravagantly operated (T. 5938).

335. On October 24, 1947, Reynolds sent a memorandum to Roberts, Wixon and Mattison (KMPC Ex. 41) in which he stated that he was not concerned with the total expense of the Overell trial by the station and laid down the policy for the future as follows:

"Our policy in the future will be to continue undertaking special events, some of which will no doubt run us considerable money...."

336. Roberts had recommended against the coverage of the Overell trial because of the expense involved, but was told to go ahead (T. 5940). Mr. Richards was greatly impressed with the coverage of the trial by Roberts and presented him with a watch inscribed: (T. 5942)

"To Cleto. Congratulations - Radio's greatest reporting scoop - Overell case - KMPC 10/5/47."

337. On November 21, 1947 Reynolds wrote a memorandum to the department heads of KMPC (KMPC Ex. 48) including Mr. Roberts in which he said,

"In light of the above it would seem that we have little reason to economize this next year.... This drive for economy is not intended to affect our personnel nor is it intended to economize in a manner that will impair the overall services we are rendering to advertisers, advertising agencies or listeners."

338. In addition to these facts Roberts prepared a report of plans for the newsroom in 1948 (KMPC Ex. 118) which was read to the executives of the three stations and was very well received by them (T. 6136). The report contained plans for expansion of the newsroom (T. 5951) which were concurred in by Mr. Reynolds (T. 6136).

339. The applicants did not offer any evidence at all that gave any indication that the financial situation of the station, either by way of reduction of revenue or otherwise, made it desirable to reduce newsroom expenses, or even evidence that the need for such reduction of newsroom expense was discussed with the financial officers of the station. In this connection, it is significant that Oren Mattison, the KMPC auditor was on the witness stand on two separate occasions and applicants' counsel made no effort to produce testimony from him to corroborate that "economy" was the reason or a reason for discharging Roberts.

340. It must be found, therefore, that the sole reason for Roberts' discharge was his unwillingness to abide by instructions established by Richards, to "do everything within our power to elect a new administration."

341. The reasons found for Roberts' discharge must similarly be found to be the reasons for the discharge of Lowin and Starrels.

342. On March 5, 1946, Guy Nunn, a newscaster at WJR, delivered a newscast (App. Ex. 471) to which George Cushing, the News Editor at WJR, took violent exception. In this newscast Nunn reported that senatorial reaction to a speech by Winston Churchill at Fulton, Missouri, was decidedly unfavorable. The quotations used by Nunn were taken from

the wire services. Cushing tried to persuade Nunn to resign but he refused insisting that, if Cushing wanted him to leave the employ of Station WJR, it would be necessary to fire him. Cushing refused Nunn's offer to submit the script to any impartial group of newsmen, but Cushing told the witness that WJR was big business and that news, as far as he and Nunn were concerned, should reflect favorably on big business and that Nunn was insane for not seeing this. The following day Nunn was fired. (T. 16426, 16442)

343. Shortly before the national elections in 1944, a friend of Mr. Richards wrote to him that Duncan Moore, who broadcast an early morning program of farm news on WJR, was promoting the political chances of the New Deal administration by including information originating from agricultural agencies in Washington which, it was alleged, was calculated to assure to the New Deal the farm vote (T. 16706 - 16707 FCC Ex. 597, 598, 599, 600). Richards wrote to Leo Fitzpatrick, the manager of Station WJR, and told him to investigate this complaint (FCC Ex. 597). Fitzpatrick had previously investigated a complaint concerning Duncan Moore who had explained his broadcast satisfactorily (T. 16706). Rather than have any idea that this program was biased Fitzpatrick took Moore off the air until after the election and then inquired from Richards whether he could reinstate him on his program (T. 16707, FCC Ex. 105 improperly excluded). Richards, asserting that Moore was a New Dealer,

told Fitzpatrick that he wanted Moore discharged as well as anyone else with his ideas' (FCC Ex. 610). He also stated that he would not tolerate any New Dealers at WJR. (FCC Ex. 568) Moore was discharged (T. 16702, 16703, 16618, 16620-16625, 16610-11, FCC 597-600, 606, 607, 609, 610).

344. Leo Fitzpatrick had been the manager of Station WJR from the date of its purchase by Richards in about 1926. Throughout the years Fitzpatrick had owned an interest in the station (T. 16537-39). Some time before the separation of Fitzpatrick from Station WJR, Richards began calling Fitzpatrick his "no man" (T. 17034). Fitzpatrick undertook throughout the latter period of his employment to prevent the use of Station WJR as an instrument for the promotion of Richards' personal likes, dislikes, antagonisms and political partisanship. Although not altogether successful in preventing material from being broadcast which carried out these desires of Mr. Richards, he was substantially successful, with the exception of the "FCB" program, in refusing to yield to the demands, instructions and orders of Mr. Richards (T. 17040). During the last six months that Fitzpatrick was associated with Station WJR, Richards ignored his authority and dealt directly with Fitzpatrick's subordinates. Through this means he systematically relieved Mr. Fitzpatrick of much of his authority. Mr. Fitzpatrick found it impossible to operate the station without being

able to secure decisions on important management problems from Mr. Richards and as a result they agreed that Fitzpatrick should give up the direction of the station (T. 16540-16542).

345. In addition to these men who, as a result of their refusal to carry out instructions of Mr. Richards were in effect discharged from the employ of Mr. Richards' stations, a number of newscasters resigned because of the strain of having to contend constantly with Mr. Richards' persistent orders, and because of unwillingness to continue to subject themselves to the policies which Mr. Richards insisted upon.

346. Walter Carle resigned his position at Station KMPC as News Editor in order to enter the advertising business. He had difficulty in maintaining a degree of mental equanimity under the strain of constant argument with Mr. Richards as to the proper handling of news. Over a period of time the strain of these arguments became considerable and somewhat arduous. These two factors resulted in his resignation (T. 2806).

347. Eddie Lyon, who succeeded Clete Roberts as News Editor at KMPC, resigned shortly before hearings were to commence in March 1949, in the investigatory proceedings which preceded the instant proceedings. He did so because he had given to the Commission an affidavit, unfavorable

to Richards, in which he had stated that Mr. Richards had given him various instructions in regard to treatment of news, and he knew that he would be called to testify as to such instructions (T. 4260). He felt that, as a result of such testimony his position at KMPC would become untenable and accordingly he sought employment elsewhere. Lyon received an offer of a position at Tulsa, Oklahoma, and he asked Robert Reynolds what the future held for him at KMPC. When he pointed out to Reynolds that he was going to testify to the truth and that his testimony would hurt, Reynolds replied that the witness could expect a cut in salary. Thereupon the witness gave notice of his resignation (T. 4260-4261) and left two weeks later.

348. It was because of the pressure of Richards' directions in Larry Thor's relationship with Mr. Richards that he started to look for another job. He found a job at the Columbia Broadcasting System as a summer replacement so he resigned at KMPC (T. 4956, 4991).

349. There has already been discussion in these Findings of the conversations between Ted Grace, a newscaster at WJR, and Mr. Richards which resulted in the resignation of Ted Grace. Mr. Grace's family was closely associated with Mr. Richards, and his father was one of Mr. Richards' friends (T. 16097). After testifying to many

incidents involving pressure put upon him by Mr. Richards, the witness read his letter of resignation dated May 28, 1947, in which he said:

"I feel it is due you to know of my reason for resigning. I am afraid that George (Cushing) might not have made it clear. It was not because of any unwillingness to continue on the 11:00 o'clock, undertake any other assignment, or because of salary. On so many occasions you have suggested things for me to say or do that were in my opinion contrary to the best interests of the station, yourself, and my listening audience, that I thought it only fair for me to resign rather than subordinate my principles or annoy you by differences of opinion. I deeply regret that I feel this action necessary and wish to thank you for the opportunities you have given me in the past. Sincerely." (T. 16123)

This resignation was written about 11:30 at night following the telephone conversation with Mr. Richards, referred to above (p.) who had called him from Washington to criticize Grace because of a newscast containing an item concerning the illness of President Truman's aged mother.

350. These facts establish and require a finding that at least ten employees, nine of whom were newscasters, were discharged because of their refusal to follow the instructions of Mr. Richards and that at least five employees resigned because of their unwillingness to continue to work under the conditions created by Mr. Richards insistence upon their obedience to orders to use the facilities of the stations which he controlled for his personal partisan purposes.

2. Richards' Persistence, Tone and
Manner of Expression

351. The character of the various communications as orders, instructions or directives is amply proven, were there doubt of Mr. Richards' intention that they should be regarded as such, by the forcefulness of the language he used in the many written communications by Richards to his employees on the subject matters covered in these findings. That intention is clear, notwithstanding the absence of Richards' own testimony in this record, from the voluminous oral testimony of his employees, from the very nature of the oral communications involved, from the manner in which he expressed himself in his handwritten communications, and from the tenor and nature of the many written responses to Richards by Fitzpatrick, the official next in line to Richards at WJR.^{1/}

352. Mr. Richards' communications to his officers and employees with respect to views and other programs on the stations controlled by him were not regarded as mere "suggestions", but were firm and clear-cut orders, directives or instructions (T. 3934). When Mr. Richards spoke to them his employees understood that Mr. Richards was not talking to them merely for conversation's sake or to offer suggestions as has been contended, but with understanding conveyed to the employees that there would be grave risk to their jobs in

^{1/} These letters of Fitzpatrick which were erroneously excluded from evidence by the Examiner, were clearly material to the issue of whether Richards intended and expected that his employees treat his communications to them as orders, directives or instructions or as pure "suggestions", more particularly in view of Richards' non-availability for examination and cross-examination under oath on this very question, i.e. the intended effect of his communications.

disobeying him (T. 6602). When Mr. Richards gave an order it was an order (T. 3806, 6552) and when he gave an instruction it was an instruction (T. 5254). Mr. Richards was definitely in control of the newsroom. His manner in talking to the newsmen was brusque and authoritative (T. 3805) and he talked to the newsmen "in dead earnest" -- never in jest or in a joking manner (T. 3981, Renier; 3806, Graham; 16778, Fitzpatrick; 3395, Starrels; 3156, Kenneally; 2773, Carle; 2547, Patterson; 2067, Desch; 4949, Thor; 5513, Roberts). Richards never told Roberts to distinguish between what might be "instructions" and what might be "suggestions" nor does the record show that he ever told anyone else to disregard him (T. 5513). Richards never told Fitzpatrick that the things he ordered him to do were suggestions and could be disregarded if Fitzpatrick disagreed (T. 16776). Richards was very aggressive and was the boss (T. 406, 16327, 16816, 18134) to whom Reynolds, manager of KMPC, was responsible. The final authority at WJR was Richards (T. 17034). John Patt, WGLR manager, made the paradoxical statement that he felt free to disobey Richards only if the orders were contrary to some other instruction (T. 18163). Reynolds admitted that he expected his own instructions to be carried out (T. 2281).

353. An example of Mr. Richards' determination in respect to these communications to his employees is shown by an experience of Walter Carle, news editor at KMPC, in connection

with a column or feature story written by Louis Bromfield (FCC Ex. 227). This article was a vigorous attack on the Democratic Party in connection with its National Convention in 1944. Jack Jordan, a newsman, received a telephone call from Richards directing that the article be used on newscasts every hour on the hour all day. Jordan handed the article to Carle who read it and took it to Mr. Reynolds' office for him to read. After reading the article, Reynolds said that Richards should understand that they could not read a thing of that kind on the air and when Carle told Reynolds that he planned to ignore the directive Reynolds said, "Absolutely" (T. 2783). Gene Carr, personal assistant to Mr. Richards, also read the story and stated: "I have told him (Richards) time and time again we can't do it. Forget it." Later in the day Richards called and asked why the story had not been used and Carle gave him his reasons. Richards said, "Aw, to Hell with that stuff. Switch me over to Carr.^{1/} He will tell you you can use that story." A few minutes later Carr came in to Carle's office and said, "Well, if he loses his license, if he pays a fine, if he goes to jail, this story is to be used on the 5 o'clock newscast. Those are my orders to you from Mr. Richards." Carle refused to permit the use of the story (T. 2784). Shortly after 5 o'clock Carle went to Reynolds and told him that he had better make an effort to find a new News Editor. Reynolds advised Carle to do nothing and see what

^{1/} Eugene Carr, at that time Assistant to the President of KMPC, WJR and WGAR.

happened. He said, "I think it will be all right." The next morning Carr said to Carle, "Well, I see you are still around," and Carle replied, "Yes and my only hunch is that Mr. Richards did not listen at 5 o'clock." Carr said, "Oh, yes he did. He has been on the telephone with Mr. Reynolds for better than an hour this morning." Nothing further was heard about the matter (T. 2785-2786). The decision not to use the story was that of Mr. Carle's alone, unsupported by either Carr or Reynolds (T. 2787). Carle resigned from the station a few months later to enter the advertising business because of the difficulty of maintaining a degree of mental equanimity under the strain of constant argument with Mr. Richards as to the proper handling of news. (T. 2806).

354. Mr. Richards held many staff meetings with his newsmen in which the same matters as those individually discussed by him with employees, were the subject matters of his discussion in these meetings. Chester Renier, the program director, attended five to ten such meetings during the time he was employed by KMPC (T. 4008), while Vance Graham recalled approximately 12 to 15 meetings (T. 3801). Charles Teas attended several such meetings during his employment at KMPC (T. 6548). Roberts, Lewin and Starrels attended at least two and perhaps four staff meetings at which Richards spoke to the newsmen (T. 3398). Guy Nunn recalled at least one meeting at WJR (T. 16414-16415). The meetings lasted for an hour or more and Mr. Richards

usually did most of the talking. Among the subjects he discussed were Communism which he violently opposed; Mr. Dykstra, Provost at UCLM (T. 3402), President Roosevelt, Mrs. Roosevelt, Henry Wallace, President Truman, Democrats in general, Jews (T. 3398), ways and means of helping the Republicans win the election by cooperation in the newsroom (T. 3397), rent control, rationing, the Taft-Hartley Act (T. 3959), David Lilienthal, Howard Hughes (T. 4650), and many others. Mr. Richards had a Rev. Fifield, a witness for applicants in these proceedings, speak at one of the staff meetings. His talk was political, pro-Republican and somewhat anti-Union (T. 3465) and dealt with how to "sneak" points of view into a newscast (T. 4381).

355. These meetings were for the purpose of indoctrinating the newsmen and understood by them to furnish a guide as to the editorial line they were to take in preparing their newscasts (T. 3496). At one of these meetings Richards told the newsmen that, "if there was not a change in the national administration, that radio and private enterprise as we know it would become a thing of the past, and, therefore, it was our patriotic duty to do everything we could to bring about such a change." (T. 3811) It was at one of these meetings that Richards explained his hate for Major General Bennett Meyers and gave instructions on the use of the name "Benny" (T. 4139). It was also at one of these meetings that Richards told his staff to "use every story that

will keep him out of that job" in referring to Lillienthal (T. 4653). Larry Thor, a newscaster, attended about three of these staff meetings and he was told their purpose was to refresh the news staff on Mr. Richards' feelings on news policy (T. 4935). At one of these meetings Richards used a variety of adjectives, all unfavorable, in talking about Jewish persons and left the newsmen to understand that all Jews were Communists and a good many Communists were Jews (T. 4940). At one of these meetings Richards had a manila envelope with a number of Westbrook Pegler's columns in it and read most of the clippings to the newsmen (T. 5098). On another occasion Richards told his news staff that, "we should climb all over the Administration and show them in an unfavorable light" (T. 5212). Richards lectured the newsmen on how to say "Republican" so that it sounded good on the air and said he desired the news staff to give the Republican side of the story a better break than had been done previously (T. 5251). At these meetings Richards frequently used the phrases with respect to quoting liberally Republican personalities such as Dewey, "don't be afraid", "keep slugging", and "give them hell" (T. 5252). Richards stated at one of these meetings that there was a Jewish plot to take over the Administration that should be exposed, and when individuals mentioned in the news were Jewish, the fact that they were Jewish should be accented (T. 5292).

356. In June 1947, Roberts prepared an agenda for a staff meeting as a result of a conference between Reynolds and Roberts on how best to control the meeting and Richards' remarks. Richards also suggested that questions be prepared (T. 5425). The agenda was not followed too closely and Richards told the newsmen not to be afraid to expose Communism and the Democrats. He spoke at some length about the Jews taking over the radio industry. He cited as evidence of this assertion, William S. Paley, the top official of the Columbia Broadcasting System network, David Sarnoff, top official of the corporate structure of which the National Broadcasting Company, another nationwide radio network, is a part. He referred to Edward Noble, a top official of the American Broadcasting Company, a third nationwide radio network, as being "a fool to let a smart young Jew like Kintner obtain so much power" (T. 5426).

357. The same kind of attempt to enlist the undivided efforts of his staff for the projection of his personal views into the programming of the three stations controlled by him is demonstrated by the events which occurred at meetings of the executives of the three stations called by Richards in January 1948. Richards had previously written to Roberts (FCC Ex. 17, T. 721) as follows:

"Please get up any suggestions you have for our meeting Jan. 20th with all three station managers. Especially suggestions that will help win the election this fall. That's the #1 job to do."

In a formal letter of welcome to the managers of his stations, dated January 21, 1948, Richards wrote:

"I place in importance, over and above all these various individual problems, the all important one of a new administration in Washington... We need new vigorous, honest, Christian leadership. The kind that Dewey, Taft or McArthur could furnish. Let's leave these meetings with a firm determination that we will plan and work and do as our forefathers did-- fight with everything possible to make this change. 1948 will go down in history as the year America decided not to go Communistic. When you return to your important posts, I know you will work and plan during every waking hour of the day between now and November to help in every conceivable way to win this great fight..." (FCC Ex. 6).

358. At a dinner in a Los Angeles restaurant (Perino's) given by Richards on January 26, 1948, for a number of the top officials of the three stations, Richards told his staff that the problem he considered of the greatest importance above all other matters was that of a new administration in Washington. At this dinner, Richards told his staff that if they did not see eye to eye with him and agree that the biggest job ahead for the three stations was to insure a Republican victory "now is the time to get out". (T. 5488)

359. The indoctrination of the news staff with the personal views of Richards by means of these meetings was effectively supplemented by a persistent day-to-day, hour-to-hour campaign of telephone calls to individual newscasters in which Richards gave specific instructions as to the content of their newscasts. There were days when Richards made 9 or 10 telephone calls to give instructions concerning news items to Tom Latimer (T. 2631). Lewin received calls from Richards practically every

day that Richards was in town (T. 4573). In fact, practically every staff newsman that testified told of many telephone conversations with Richards during which instructions of the nature previously described were given to them. (T. 2059, 2540, 2564, 2636, 2734, 2915, 3149, 3395, 3774, 4098, 4770, 4931, 5192, 6527, 6697). John Denman, WJR newscaster, told of Cushing's (WJR news editor) instructions to clear with him before putting anything on the air that Richards telephoned about to the newsroom (T. 16394). Richards called Cushing every day or so when he was in Detroit about news (T. 16496). Occasionally, Richards came to the station and talked to individual newsmen such as Grace, Denman at WJR (T. 16394, 16118) and Latimer, Hall and Roberts at KMPC (T. 2562, 2935).

360. The record is replete with Mr. Richards' letters, telegrams, newspaper clippings, and memoranda to his employees directing the implementation of his views on the subjects already discussed, confirming the testimony of these witnesses. Many of the newscasters complained to Robert O. Reynolds about the instructions which they received from Mr. Richards. Charles Teas had a number of conversations with Reynolds concerning Richards' orders to use particular items in newscasts. On occasion, Reynolds told him to omit the item which Richards

directed to be used. However, if Mr. Richards were very insistent, Reynolds told Teas that he had better carry out the instructions (T. 6555). On a number of occasions Vance Graham talked to Mr. Reynolds about Richards' instructions and it was suggested to him by Reynolds that Richards might become extreme and that he should use his judgment with respect to the directions Richards gave (T. 3807). Tom Latimer, a newscaster, asked Reynolds whether or not he should use a particular story and when told that Mr. Richards had ordered it done Reynolds said, "All right, go ahead and use it." (T. 2578) ^{1/}

361. John Dehner spoke to Mr. Reynolds a few times and asked him if he wouldn't tell Mr. Richards to "lay off." Dehner would say to Reynolds, "He is breathing down my neck, Bob, and it is getting pretty tough for me to do the job I want to do. I have certain ideas as to how the news should be presented and I believe it is in conformity with what we know to be the proper method of news dissemination and I can't do anything about it because he is calling me on the phone all the time." Reynolds would agree that, "the old man is pretty tough and it is pretty rough" but, in Dehner's words, "there the matter would lie" (T. 4781).

1/ Sidney Fuller who broadcast a special news program at KMPC for a year ending in February 1947 and a witness for applicants admitted hearing newscasters discuss Mr. Richards' calls on something he didn't like (T. 8761).

362. Walter Carle discussed with Reynolds the telephone calls which Richards made to the newsmen and pointed out the desirability of having Richards' calls clear through the News Editor rather than directly to the newsmen. Reynolds concurred in that view and for a while Mr. Richards followed that practice but soon was calling the newsmen directly again (T. 2806).

363. Eddie Lyon, a newscaster, had several conversations with Reynolds about these telephone calls from Richards. After the discharge of Cleve Roberts, Lyon was offered the position of News Editor of KRPC. He accepted the position with the stipulation that Mr. Richards would cease calling him. That was put in a letter from Lyon to Reynolds, and, though the personnel files of the station were as complete as possible, (T. 6292) this letter was never produced. Its production was requested on a number of occasions (T. 4109, 6292).

364. Mr. Reynolds stated that a good many newscasters would come to him and discuss with him instructions that they received from Richards with respect to news but he could not recall any specific instances nor the subject of their conversations with Richards (T. 758-761). He did recall generally that their discussions with Richards ran the gamut of subjects (T. 883). On cross-examination by his own counsel almost three weeks later Reynolds entered a long series of denials to the effect that he had never heard Richards give instructions

nor had newscasters told him of instructions they received on a long series of statements made by Richards to newsmen, many of which they complained about to Reynolds. (T. 2210 et seq.) The Examiner pointed out at the time that Reynolds' oblique denials were ineffective and meaningless (T. 2217). In view of his earlier testimony, Reynolds' statements in this respect cannot be believed.

365. In addition to complaining to Reynolds, the newscasters also complained to Roberts (T. 5523). Roberts also discussed with Richards the conversations which Richards had with newsmen (T. 5197). Roberts pointed out to Richards the possible violations of the FCC rules and regulations and asked Richards to call him and not the newsmen in giving instructions. Richards' comment was "To Hell with the FCC. Let them take our license away. We will go down with all flags flying" (T. 5525).

366. Frequently the newsmen told Chester Renier of the things that Richards instructed them to do in newscasts and asked him what action they should take. Renier replied to them that they should go ahead and do what Richards told them to do or use their own judgment or whatever they wanted to do. (T. 3951)

367. At the time Walter Carlo was News Editor, Mr. Richards would issue directives that editorial matter be utilized in newscasts from time to time though Carlo tried to prevent it.

Frequently, the men who worked for Carle told him that Richards had called them and told them to use stories from newspapers or editorials. On these occasions Carle countermanded Richards' orders and told the men that if they were in doubt about the propriety of using any of the material directed by Richards they should discuss it with him before proceeding. Also on these occasions the newsmen would argue with Carle on whether they should handle the news in the way he told them or Richards told them. On occasion a newsman would point out that, after all, he had a job, Richards owned the station, and the smart thing would be to put the news on as he was told by the owner. (T. 2773-2776). Carle countered these arguments by telling the men that they should present the news factually regardless of the personal convictions, objectives, beliefs, likes, dislikes or prejudices of the person who owned the station. As has been pointed out, Carle found it necessary to leave Station KMPC because of the difficulty of maintaining a degree of mental equanimity under the constant strain of argument with Mr. Richards as to the proper handling of news (T. 2806).

3. Self Serving Assertions
in Richards' Behalf

368. The top officers of the applicants who appeared as witnesses insisted that Mr. Richards did not intend the extreme things he said as instructions and that the top officers and employees understood they were not such. Reynolds, station manager at KMPC, with an obvious interest in testifying favorably to Mr. Richards, took such a position (T. 2303). But he completely contradicted his whole position on this matter when he testified that one reason he decided to discharge Roberts was that Roberts had "defied" Mr. Richards in referring to a tremor in General MacArthur's hand (T. 346). Implicit in this assertion is the admission that Reynolds regarded Mr. Richards' assertions to Roberts on this score as orders. And this contention of Reynolds is even more completely destroyed by his own written statement that Roberts was being discharged because he would not go along 100% with the company policy to "Do everything within our power to elect a new administration" (FCC Ex. 5).

369. John Baird, another top officer presently employed by KMPC, also having an interest in testifying favorably to Mr. Richards, took a position similar to that of Reynolds on this question (T. 13380, 13918). He stated on the one hand, (a) that it was his practice as

chief announcer to advise newscasters on his staff to be sure to distinguish between what Mr. Richards intended as an instruction and what Mr. Richards intended merely as expression of opinion (T. 13380), and, on the other hand, (b) that he was not aware of any calls made by Mr. Richards to himself or to the news staff with respect to the manner of treatment of news in newscasts (T. 13912 et seq.). He was unable to give any explanation of why he found it necessary to give newscasters the advice in (a) above, if he was not aware of any calls by Mr. Richards with respect to treatment of news. His testimony on this score is completely without value for the further reason that his testimony was flatly contradicted by Chandler, a newscaster still employed at KMPC and called as a rebuttal witness by the Commission (T. 13380-13404, 14582 et seq.) 1/

370. Patt, now president of the three stations, testified in similar vein to Reynolds in regard to whether Richards' oral and written communications were suggestions

1/ Baird, when asked what particular information he gave to new announcers when they first came on duty at KMPC, stated that he gave them a copy of the KMPC Manual of Operations and told them they might expect telephone calls from Richards but that they were not to regard what he said as instructions (T. 13379-13381). However, Chandler, presently employed by Applicants as an announcer, testified that on the first day of his employment at KMPC, Baird toured him around the station (T. 14580) and told him the names Roosevelt, Wallace and Truman were taboo and that the names General MacArthur and J. Edgar Hoover should be built up because they were great national heroes (T. 14582).

and opinions, or orders and directives (T. 18163). He, more than Reynolds, having recently been made president of the three stations (T. 18163-18170) had an interest in testifying favorably to Richards. But he too contradicted that position by his own admission that he acceded to Mr. Richards' determination to have the Rupert Hughes broadcasts carried on Station WGAR (see supra p. 152 ; T. 18196-18197) even though he was forced to carry it sustaining because he (Patt) had been unsuccessful in finding a sponsor for it (FCC Ex. 571, T. 18156). It is to be noted that Mr. Patt was unable to satisfactorily explain in what way he regarded Mr. Richards' communications to him, that "you must stand up and be counted regardless of past attitude" (FCC Ex. 90) and "Regardless of your personal feelings, I want you to watch our newscasts carefully and every other activity at the station, putting our best foot forward for Dewey" (FCC Ex. 571, T. 18192 et seq.).

371. A number of letters were introduced by Commission Counsel and Applicants' Counsel, purportedly written by Richards or at his instance, containing statements urging his officers to "observe FCC regulations". Many of these antedated the period (prior to 1943) when Mr. Richards actively began to pursue a policy of utilizing these stations for his partisan political purposes (FCC Ex. 622, App. Ex. 433, 492). In other letters (FCC Ex. 72, 73, 74,

76 and 82), all purportedly written in 1944 ^{1/}, the urgings "to obey FCC rules" were being completely repudiated by Mr. Richards almost every day in scores of other letters in which his determination to flout all concepts of fairness and non-partisan views on his facilities was more than obvious on the face of the letters. Mr. Richards' actions as reflected in the foregoing findings bespeak his intentions far more eloquently and far more convincingly than a few self-serving letters of many year vintage which Mr. Richards was unwilling to come to the stand to back up.

^{1/} There were no such letters urging obedience to FCC rules after 1944.

V.

RICHARDS' MISREPRESENTATIONS TO COMMISSION

372. On February 28, 1948, the Radio News Club of Southern California sent the Commission a letter of complaint on the conduct of the newsroom at Station KMPC. The Radio News Club also sent affidavits of Clete Roberts, Robert Anderson, David Anderson, George Lewin, Maurie Starrels, and Arch Hall, together with a number of letters in the handwriting of G. A. Richards and other documents supporting the complaint (FCC Ex. 224). On March 5, 1948, Radio News Club sent a supplemental letter to the Commission enclosing additional documentary evidence and the affidavit of John Dehner (FCC Ex. 225). All of these affiants had been former employees of Station KMPC and had worked in the KMPC newsroom. All of them were witnesses in this proceeding and testified. Their affidavits were in substance the same as their later testimony, as described in the preceding proposed findings of fact, to the effect that Mr. Richards instructed and required members of the news staff at KMPC to distort the news to reflect his personal and partisan points of view in various ways. On August 12, 1948, the Commission sent this material to Mr. G. A. Richards at each of the three stations which he controls and requested that he furnish the Commission a complete statement under oath with respect thereto.

373. On September 3, 1948, Mr. Richards submitted to the Commission his affidavit (FCC Ex. 15) and certain other voluminous materials having to do with various aspects of the operation of applicants. In his affidavit, Mr. Richards made a series of representations to the Commission which were in effect a general denial of the allegations in the material sent to him by the Commission. These representations were:

"As an individual but not through his stations, (Mr. Richards) has actively supported and contributed money to the cause of Republican national and state candidates,..." (p. 7, FCC Ex. 15)

In the light of the findings heretofore made, particularly those on the contribution of free time on political broadcasts to the Republican Party, including the Rupert Hughes programs (supra p. 143 to 157), it must be found that this assertion was a deliberate misrepresentation to the Commission.

374. Mr. Richards, in this affidavit made the following additional statements:

"At no time has affiant wanted, desired, or intentionally caused any of the three stations to favor or discriminate against any political party or its candidates,..." (p. 8, FCC Ex. 15)

"Affiant does not have, and never has had, any prejudice against any religious or racial groups and has tried to work for the time when all such prejudices can be forgotten and buried. In particular affiant has never had any prejudice against Jews either individually or as a group." (p. 9, FCC Ex. 15)

"Affiant has repeatedly told the executives and principal employees of each of the stations whenever any of his messages to

"them were 'off base' to comply with the law and the Commission's rules and decisions and, when in doubt, to consult the attorneys of the three stations and to follow their advice. They have regularly done so. So far as affiant knows none of the three stations has ever violated the law or the Commission's regulations or decisions, has never been unfair or discriminatory between political parties or candidates, or schools of thought and has never been guilty of any racial or religious discrimination or favoritism." (p. 11, FCC Ex. 15)

- (c) "Affiant denies that he ever issued any instructions, orders, or even suggestions, directly or indirectly to any commentator, newscaster, or other person connected with the broadcasting of news at KMPC, to broadcast items unfavorable or prejudicial to Jews or to any other religious or racial group, or to avoid or suppress stories because they might arouse sympathy for Jews or any other religious or racial group." (p. 13, FCC Ex. 15)

375. On February 24, 1949, Mr. Richards filed a petition with the Commission in which he requested that he be heard by the Commission en banc. This petition contradicts the affidavit previously filed by Mr. Richards in many important respects. Mr. Richards represented in the petition in referring to the affidavits and other documents sent to him by the Commission on August 12, 1948, that:

"Petitioner admits his authorship of all such documents and notations as are genuine and, so far as he knows, all said documents and notations are genuine." (FCC Ex. 16)

In referring to the affidavits concerning his instructions to employees charging that those affidavits exaggerated or

misconstrued his remarks (see page 13 of affidavit), Mr. Richards represented to the Commission that, "so far as he has knowledge of them, Petitioner admits the truth of portions thereof." Mr. Richards desired an opportunity to be heard by the Commission en banc in order to afford him "an opportunity to admit the wrongfulness of certain acts" without specifying what actions of his were wrongful.

376. In this petition Mr. Richards represented to the Commission that he was "firm in his belief that his admissions, explanations, and sincere assurances will convince the Commission that no further hearing is necessary."

377. In the light of the findings in Section IV herein, and in the light of the assertions and admissions in the petition filed by Mr. Richards with the Commission (FCC Ex. 16), it must be found that each and every one of the above-quoted assertions made by Mr. Richards in his affidavit to the Commission (FCC Ex. 15) was a deliberate misrepresentation calculated to deceive the Commission.

378. At the time Mr. Richards' petition was introduced during the hearing in Los Angeles Mr. Burns, counsel for the applicant, stated in his objection to the admission of the petition:

"That was received by the Commission as part of what might be comparable to settlement negotiations." (T. 667)

Mr. Burns' statement in this respect constitutes an admission on the record that the statements which Mr. Richards made in this petition were completely lacking in sincerity, an admission which compounds the deception which was attempted by means of the untruthful assertions in the affidavit.

379. On March 16, 1949, Mr. Richards, through his then counsel, requested that the investigatory hearing (Docket 9193) which was scheduled to begin in Los Angeles within a short time be continued to permit them to file, on behalf of Mr. Richards, an application for consent to transfer to trustees voting control of all stock owned by him in the three stations which he controlled. In support of this request two affidavits of Mr. Richards' physicians were submitted to the Commission indicating that the holding of such hearings would imperil Mr. Richards' life. It was also stated by Mr. Richards' counsel that Mr. Richards intended to retire on his 60th birthday which was March 19, 1949, and that he had planned to attend a celebration of his birthday in Detroit at the time he announced his retirement, but was compelled because of a relapse of his health to return to Palm Springs. The Commission continued the hearing and on April 18 three applications for consent to transfer control of the corporate licensees of KMPC, WJR and WGAR were filed with the Commission by Mr. Richards. In these

applications, one of which was signed and sworn to by Mr. Richards, (WGAR) and the other two were signed and sworn to by Frank E. Mullen, President of the licensee corporations on his behalf, the following was given in response to item 8 of the applications which called for the reasons for the transfer:

"Transferor's poor health renders necessary elimination of the responsibility and anxiety normally adhering to control of a Licensee corporation."

380. These applications were designated for hearing together with the applications of the three stations for renewal of license as was shown in the preliminary statement. On December 20, 1950, one day before the end of the hearing, Mr. Fulton, counsel for Richards and the stations, filed, in accordance with his announcement on December 18, 1950, a petition to dismiss these applications on the following grounds (T. 17710): That the applications for transfer of control were filed because of Mr. Richards' belief that, "the naming of trustees would obviate the necessity for protracted and expensive proceedings..."; that "The applicants are required either to withdraw the trustee applications in this proceeding or to proceed with them with the knowledge in advance that the applications for the approval of the appointment of trustees and the trust instrument with respect thereto are not satisfactory to the Commission staff

and will be opposed;" that, "The past record and magnificent achievement of the three stations under the ownership and management of Mr. Richards is the best evidence of the continued progress and fine public service which may be expected from the stations if he should continue as principal stockholder without the appointment of trustees;" and that, "even in the event that the application for confirmation of the appointment of trustees should be pursued or should be modified in an effort to guess at and more than meet all of the objections which might conceivably be raised, the appointment of such trustees would not even constitute a safeguard in the future against having to deal again with the same contentions raised in these hearings on every major application which the stations, or any of them, may have to make for television, increased power or the like."

381. The admission made by Mr. Richards' counsel in requesting a dismissal of the transfer applications—that the reason the applications were filed was to obviate a hearing and that Mr. Richards now has no desire to retire—shows clearly that the answer given to item eight of the transfer application was a deliberate and deceitful misrepresentation to the Commission. Mr. Richards said nothing in that answer or anywhere else in the applications which even suggested that the reason for the proposed transfer of control was to avoid a hearing. The only reason given to the

Commission was the state of his health. He has now, through his counsel, either repudiated that reason or has admitted that neither the state of his health or his age (he is now almost two years older) require his retirement. This must in turn mean that his health has either improved to the point where he may now safely continue active control of his stations without voting trustees, or that his health never was such that he needed to relinquish such control. Either result involves Mr. Richards in serious misrepresentations to the Commission.

382. These misrepresentations as to his health are aggravated and made even more serious in the light of the reasons given for his failure to appear as a witness.

383. In his petition in February 1949, Mr. Richards represented to the Commission that he was anxious to testify before the Commission. But, when given that very opportunity in June 1950, by responding to a subpoena issued at the request of the General Counsel, the state of his health was pleaded by his counsel as an excuse for not appearing. This very record showed that Mr. Richards' physical condition was such that he could engage in vigorous business activities, play poker, keep late hours, make frequent trips to Palm Springs, and from Los Angeles to Detroit, attend football games (even during the time when the

hearing was in progress and after he was excused from the subpoena by the Examiner), baseball games, horse races, social events and various other forms of activity (T. 382, 384, 379, 387, 397, 399, 426, 430, 432, 438, 451); yet, he even refused, through his counsel, to submit to a physical examination by impartial doctors on the ground that he, "did not intend to harass Mr. Richards any more than was essential" (T. 7361). Mr. Richards' representations that he was physically able to testify in February of 1949 and the representations as to the soundness of his health which are implicit in the reasons given on December 20, 1950, for dismissal of the transfer application, are clearly at variance with the reasons which were given in June, July and August of 1950 as to why he could not appear as a witness.

VI,
APPLICANTS' SHOWING

A. COMPLETE FAILURE OF APPLICANTS' PROOF
TO REFUTE ALLEGED INSTRUCTIONS, ORDERS
AND DIRECTIVES OF RICHARDS

384. An analysis of applicants' presentation shows very vividly that no serious attempt was made to refute the testimony and documentary evidence introduced through Commission witnesses concerning Richards' instructions and the extent of compliance therewith.

385. Applicants' failure to attempt refutation, explanation or amplification of the Commission's showing in those matters primarily at issue in this proceeding is directly attributable to the extraordinary refusal of the applicants to bring to the stand the one person in full possession of all of the facts. Extensive efforts were made by the General Counsel to secure Richards' appearance at the proceedings (T. 55-61) and, although the General Counsel pointed out as late as May 31, 1950, that since Richards at that time was able to engage in strenuous business activity it appeared that he might be able to take the stand (T. 57-59) such efforts were met with flat refusal (T. 7361). Applicants' position was that Richards' health was too delicate to permit his testifying. The record shows that in recent months Richards had been able to play poker (T. 432), and attend horse races (T. 382, 384).

While these very hearings were going on, he was able to attend football games (T. 14637), baseball games (T. 10449), receptions and banquets (T. 14643), to make numerous trips between his home in Beverly Hills and his ranch in Palm Springs (T. 433, 437), and to make at least three round trips from Los Angeles to Detroit and Cleveland (T. 379, 14646, 18181). He participated most actively over the years in the business affairs of the three stations, as is shown by the foregoing findings. In the face of such strenuous physical and mental activity by Richards, four of his personal physicians took the stand and testified that his attendance at the proceedings might endanger his health, or even result in his death (T. 1652, 7299, 7301, 7140, 7141, 7314). ^{1/} It is of great significance that

^{1/} It is also significant to note that although his physicians testified that the heart condition which prevented his taking the stand in this proceeding was one of some 20 years standing, Mr. Richards purported to be willing, less than two years ago, to appear and testify in a hearing. Also, Dr. Roy Thomas did not tell applicants' counsel in a letter to them on March 13, 1950 (FCC Ex. 191) that Richards should not appear but merely expressed the hope that Richards "can be spared any tedious cross examination or any emotional upset". When questioned about this on the stand, Dr. Thomas stated: "I should have said any cross-examination" (T. 1654) (underscoring supplied). When asked why he dealt less alarmingly about Richards' appearance on the witness stand in his letter to applicants' counsel than he had in a previous affidavit to the Commission, Dr. Thomas testified that he could give no explanation (T. 1655).

applicants' counsel refused to agree to permit physical examination of Richards by impartial doctors (T. 7348-7349), 7352-7353, 7356-7358, 7361). The Examiner on the basis of testimony of Richards' doctors concerning the probable fatal effects that would result if he took the stand ruled that he would relieve Richards from complying with the subpoena which had already been issued (T. 7350). The fact remains that Richards did not take the stand in the face of overwhelming evidence which only he could deny if such evidence had been untruthful. It has, of course, been pointed out that he at one point admitted to the Commission the truth of the substance of the evidence (FCC Ex. 16, supra p. 237).

386. Applicants devoted a substantial portion of their showing to the interrogation of some 40 odd witnesses who were either employees or ex-employees of the applicants. On direct examination through a series of carefully phrased questions many of these were able to testify in substance that they had either not received instructions such as those testified to by Commission's witnesses or had not heard Commission witnesses comment on the receipt of such instructions. Many, for reasons given below, were able to testify in both connections. This line of purported proof apparently stemmed from the unique belief on the part of applicants' counsel that a fact established by a particular

witness or exhibit may be disproved by showing that the fact was unknown to someone else or was not contained in some other but similar document. While such testimony was intended by applicants to in some way minimize or discredit the testimony of Commission witnesses concerning Richards' instructions and their compliance therewith, an analysis of the testimony shows the complete failure of that effort.

387. With few exceptions the witnesses who so testified fall into five general categories:

- (1) Those not in the direct employment of the stations but in fact employed on a free lance basis by advertising agencies or sponsors. In this category are included:

Fuller (T. 8749); Lawton (T. 9008); Irwin (T. 9408-9517); McHugh (T. 9616); Prescott (T. 9667); Crook (T. 11030); Stahl (T. 10057-10058); and Stone (T. 12751).

- (2) Those employed at the station such a brief period or so irregularly that Richards had no real opportunity to utilize them in the furtherance of his plans. Included in this group are: Manning (employed as newscaster, KMPC, two months, thereafter appeared for one year, twice a week, on free lance basis) (T. 12673); Blackiston (broadcast commentary over KMPC without pay October 1942-September 1943) (T. 9820); Newkirk (employed KMPC two months 1937) (T. 10597); Balinger (employed KMPC 4 months, 1945) (T. 11607); Martin (employed KMPC September 1937-June 1938) (T. 8969-8970); Forsyth (employed KMPC latter part of 1944-January 1945) (T. 12145); Pierce (occasionally put on commentaries KMPC 1946) (T. 9288).

- (3) Those employed by applicants in positions that did not lend themselves to Richards' ends. Among these were Jeanne Gray (commentator for program over KMPC entitled "Woman's Voice")

(T. 92717); Weber (occasionally conducted post mortem football broadcasts and other sports programs) (T. 17717-17720); Cameron (production man, KMPC, March 1940-April 1941) (T. 9747); Osman (salesman KMPC 1943-1945) (T. 10167-10168); Beaton (salesman KMPC 1936-1944); Berger (presented synthetic ball game over KMPC 1946-1949, also had other sports shows (T. 10691-10693); Brechner (sound effects man WJR) (T. 10862); La Gasse (musician KMPC, 1946-1948) (T. 11015); Silverman (Music Librarian WJR) (T. 11242); Large (Associate Director of Music, WJR) (T. 17577); Wells (Farm Editor WJR) (T. 17682). Also included in this group are a number of witnesses who were formerly employed by Richards in connection with his ownership of the Detroit Lions football team. These persons were apparently called to the stand for the purpose of meeting the Commission's proof concerning the anti-Semitic character of some of Richards' program operations or to support applicants' contention that employees could refuse to carry out Richards' instructions with impunity. Witnesses in this category

included Kushner (member of the Jewish faith who stated he had been promoted by the players from Trainer to Head Trainer during the period Richards owned Lions) (T. 11215, 11216, 11217, 11222-11224); Clark (played with Lions when Richards owned team, stated he had never heard Richards say anything about discriminating against Jews) (T. 17314); Emmett (associated with Lions as publicity man during Richards tenure—disagreed with Richards re sale of tickets without repercussions) (T. 17547-17548). 1/

- (4) Those whose employment in positions sensitive to Richards' instructions was spasmodic and purely on a substitution basis. Among these are included: Rhines (announcer KMPC, January 1940 to June 1949, filled in for newscasters occasionally when ill) (T. 11517, 11520); Corey (announcer KMPC, 1931-1941, did newscasts on late

1/ So intrigued with this line of proof did applicants become that they even called to the stand as a witness a man who had never been employed by either Richards or the stations but who had at one time been interviewed by Richards for a job as Sports Announcer. This witness was able to testify that Richards in the interview did not suggest that if employed he should discriminate against personalities in the sports world (see testimony of Heilman, T. 17482).

night shifts irregularly on a substitution basis) (T. 11592, 11596); Flynn (announcer KMPC, except three months in 1946 has done newscasts on substitution basis only, spends little time in newsroom) (T. 11611, 11613, 11650); Heatherington (general staff KMPC January 1944-May 1946, substituted on news, not in newsroom with any regularity) (T. 9163); Turner (employed KMPC since March 1946, first three or four weeks on news staff since then has acted as substitute) (T. 12803, 12805, 12806).

(5) Those whose employment was mainly in the period after the institution by the Commission of the instant proceedings. Among these are: Larry Smith (employed KMPC September 1948-June 1949) (T. 9958); Campbell (employed KMPC June 1948-June 1949) (T. 11348); McCulla (employed KMPC February 1948 to date) (T. 11394-11395); Harpel (employed KMPC February 1948 to date) (T. 11955); Frandsen (employed KMPC March or April 1948 to date) (T. 2075); Burris (employed WJR September 1948 to date) (T. 17500); Hyde (employed WJAR January 1950 to date) (T. 17899).

388. By the very nature of the above categories it is apparent that the testimony referred to thereunder can be of no probative significance. It is not surprising that free

lance newscasters, employed directly by sponsors or advertisers, who were not beholden to Richards for the retention of their jobs, were able to testify that they had not received instructions similar to those testified to by direct employees of the station. Their testimony hardly refutes the testimony of Commission's witnesses who, dependent on the stations for their livelihood, had no such buffer against Richards' operations. Similarly no evidentiary value can attach to like testimony from persons who were employed at the stations for brief periods of time or those who were either not employed in the kind of positions sensitive to Richards' pressures, or whose employment in such positions was brief, erratic and on a substitution basis. Further, it is apparent that not all positions at a radio station lend themselves to use by a licensee in the promotion of his own personal views and ideas. Announcers, salesmen, sound effects men, librarians and others listed under (4) above, by the very

character of their employment, were effectively insulated from the impact of Richards' programming ideas and operations. The testimony along the same line, of those witnesses who were employed subsequent to February 1948, may also be dismissed with the observation that after that date nationwide attention was focused on Richards' radio operations, and shortly thereafter the Commission's investigation of the Applicant stations was initiated. Under such circumstances, it is obvious that questionable operations would be cleaned up. 1/

389. Cutting across all of the above categories was intermittent testimony from various witnesses, to the effect that they had known certain of the Commission's witnesses but had not heard them state that they had received such instructions as they had testified to during the presentation of the Commission's case. Assuming such testimony to be true, it is of no probative value with respect to the truth or falsity of the testimony of the Commission's witnesses since no reason was apparent why the Commission's witnesses should have made such disclosures to applicants' witnesses. In many cases

1/ It is obvious, moreover, that witnesses who were still employed at the stations at the time they were called to the stand by applicants would have a definite interest in not giving any testimony unfavorable to Mr. Richards.

applicants' own witnesses did in fact admit, on cross-examination, to having heard Commission witnesses say precisely what they had testified to with respect to instructions from Richards (see, for example, testimony of Stone, Hemingway, Nesbitt, Berger, discussed at pp. 255 to 264 *infra*).

390. A review of this entire portion of applicants' case makes apparent that a studied technique was employed by applicants' counsel in extracting such testimony. Those witnesses who, by reason of brevity of tenure or character of employment, were able to forthrightly testify that they had never received such instructions as those at issue here or had never heard Commission witnesses comment on the receipt of such instructions were queried boldly and at length. Those who had been employed by applicants for any substantial period of time and had even on a substitution basis been connected with positions sensitive to Richards' pressures were led through a labyrinth of carefully framed questions hedged with qualifications, restrictions and limitations. This technique boomeranged on cross-examination when applicants' witnesses were fully interrogated concerning their direct testimony. Such questioning invariably resulted in applicants' witnesses professing such a faulty memory with respect to specific

facts as to raise serious doubts as to the credibility of any of their testimony or else resulted in substantial corroboration of the testimony of the Commission's witnesses. The character of this corroborative testimony is dealt with at length (pp. 255 to 264 *infra*).

B. CORROBORATION AND SUBSTANTIATION OF THE TESTIMONY
OF COMMISSION'S WITNESSES BY APPLICANTS' WITNESSES 1/

391. As previously indicated, applicants' parade of employees and ex-employees while adding little to their showing, did serve to substantially corroborate the testimony and documentary evidence presented in the Commission's showing. Substantiation of the Commission's witnesses' testimony concerning receipt of instructions from Richards with respect to the manner in which he wanted the news handled, is pointed up by such testimony of applicants' witnesses as the following.

392. Berger, who broadcast baseball games and other sports programs over KMPC from 1937 to 1942 and from 1947 to 1950 (T. 10692-10693) stated that he recalled many occasions when Clete Roberts received calls from Richards when Richards wanted news played up or played down (T. 10704-10705). He also stated that everyone at the station knew that Richards was a strong Republican and there were many conversations among newscasters about how Richards felt that the news should be presented so far as the Administration was concerned (T. 10703-10704).

1/ The most significant corroboration of the Commission witnesses was by Richards himself in his petition of February 24, 1949 (FCC Ex. 16).

Rhines, who occupied various capacities at KMPC from January 1940 until June 1949, testified when asked concerning the receipt of telephone calls by newsroom personnel:

".....The pattern was invariably the same. Mr. Richards called everybody who is actually on the air at intervals" (T. 11548):

He also stated that Richards' numerous telephone calls imperiled efficiency of the organization (T. 11558-11559).

Flynn, an announcer presently employed at KMPC and has been since October 1946 who frequently substitutes on newscasts, admitted that he had been told by one of the newsmen to use all the news on Henry Wallace because Wallace's party was presumed to be subversive (T. 11616). He also stated that on occasion Richards had told him to use stories on MacArthur (T. 11641).

Nesbitt, a free lance newscaster presently employed at KMPC, testified that Richards on one occasion gave him a pamphlet by John Flynn concerning the alleged machinations of various Jewish persons in commerce, finance and politics with the statement "Well take it along and read it. You might find it interesting." (T. 12171-12175).

396. Stone, who has for many years presented a business news commentary over KMPC and has on various occasions intermittently presented newscasts for KMPC, stated that when he first went to the station (T. 12771) KMPC had a program entitled "News of the Nation" in which editorials were "dragged in by the heels" (T. 12773). He said the directions concerning "News of the Nation" program came from Richards and that he was told that the inclusion of editorials in the program was because Mr. Richards wanted them there (T. 12777). He also stated that on occasion Richards called him directly (T. 12379).

397. Turner, a staff announcer at KMPC, who has frequently presented newscasts on a substitution basis, testified that Richards on one occasion called him and suggested that he refer to Senator Pepper as a crackpot (T. 12829); and that Vance Graham told him when he first went to the station that he would, as he worked into his job, learn Richards' likes and dislikes (T. 12984). He later heard that Richards did not like Mrs. Roosevelt or Henry Wallace and that he did like J. Edgar Hoover. He also admitted that the words, "A must on every newscast on 20 Oct., 1947 Mr. Richards' orders" written on an item in a newsprint (FOC Ex. 335) were in his handwriting (T. 13184).

398. Homingway, who was a KMPC newscaster for several months during 1944, and who presented on a free lance basis two newscasts a day for over a year (1945-1946) for the Seaboard Finance Company

in his sworn affidavit dated April 26, 1948 (F.C.C. Ex. 293)

completely corroborated the testimony of the Commission's witnesses concerning Richards' instructions in the following language:

"In personal contacts with Mr. Richards either by telephone, in conversations, or in staff meetings, I was under the impression that it was his desire to play up the Republican viewpoint and play down the Democratic viewpoint in broadcasts emanating from KMPC. In addition certain world figures such as General MacArthur were to be played up at every opportunity, and likewise certain individuals such as Henry Wallace were to be played down or shown in an unfavorable light. Mr. Richards seemed to be of the opinion that the New Deal was responsible for the number of Communists that were in the country. It was my belief that he wanted these views to be embraced by his employees so that these views would be carried out in the broadcasts given over the air.

"The general policy of the station seemed to be that Henry Wallace should be presented in as bad a light as possible at all times. This was to be accomplished by using stories from newspapers unfavorable to him, repeating any ridiculous stories or anecdotes regarding him, and by omitting any favorable items regarding him. In general this policy was carried out in the newscasts so that a listener would have received only one side of the news regarding Mr. Wallace.

"In the 1946 Congressional elections Congresswoman Helen Douglas was running for re-election against a negro Republican candidate. Mr. Richards phoned me one day and said in effect 'Give the Republican colored candidate a boost whenever possible so as to help him in his campaign. I would back anybody to get that Douglas woman out of there'.

"Mr. Richards was rabidly anti-Communists and insisted that nearly every newscast have items in it unfavorable to Communists. This policy was carried out and there were items unfavorable to Communists in nearly every newscasts.

"Whenever General MacArthur made any statement, Mr. Richards insisted that these statements be given on the air as often as possible. As a result stories concerning the general were given a prominence out of relation to their news importance.

"At the time of the incident involving Elliott Roosevelt and his dog being on an airplane, Mr. Richards wanted that story played up as much as possible in order to put Mr. Roosevelt in an unfavorable light. As a result numerous stories were used on the air, presenting various members of the Roosevelt in as bad a light as possible.

"At the time of the munitions scandal involving the Garsson brothers in Washington, Mr. Richards personally told me 'to expose these damn crooks for what they were'. Mr. Richards told me that the Garssons were Jews and it was my impression that that was the reason he wished the story played up. As a result I used the story more often than its news value warranted, although I did not in any way bring out the fact that the Garsson's were Jews. I think it is clear that Mr. Richards was violently anti-semitic in his thinking, and I was of the opinion that Mr. Richards would have liked to get these beliefs across to the listening public if it were possible."

Called to the stand by applicants to contradict testimony of Commission witnesses, Hemingway on cross examination **admitted the truth of the above affidavit (See T. 8847-8856, 8859-8860, 8887-8889).**

399. Proof elicited through applicants' witnesses was by no means limited to instructions. Cross-examination of Nesbitt, who for many years has presented news programs over KMPC, on a sampling of his scripts, demonstrates a pattern of adherence to news policies laid down by Richards. For example, Nesbitt's practice was to delete from his newscasts references in wire copy to James Roosevelt being "the eldest son of the late president" and the fact that "he served as a colonel in World War II" (FCC Ex. 302, 303, 304 and 305, T. 12612-12613). Nesbitt gave comprehensive coverage in his newscast on February 13, 1948 to

the Republican Lincoln Day Dinner but included no critical comment from Democratic leaders (FCC Ex. 306). The item concluded with a statement that the Democrats would be heard the following Thursday when they held their Jefferson-Jackson Day Dinner and "just as widely reported". His script covering the Jefferson-Jackson Day Dinner (FCC Ex. 308) devotes twelve lines to President Truman's address, three pages of unfavorable comment concerning the speech and a two paragraph item on a speech by Harold Stassen on the same day. When queried concerning his failure to include critical comments of the Democrats to the Lincoln Day speech in contrast to the inclusion of extensive and critical Republican comments concerning the Jefferson-Jackson Day Dinner, he furnished no explanation except that both had undoubtedly been taken from the Press Service wires (T. 12640). He admitted, however, that both newscasts were carried at the same hour, eight o'clock in the morning (T. 12639).

400. In his newscast of April 28, 1950 (FCC Ex. 314) an item was deleted quoting Mrs. Eleanor Roosevelt to the effect that the exclusion of Russia and its satellites from the United Nations seemed the shortest way to war. With respect to this item Nesbitt attempted to imply that the article was merely marked for possible deletion depending upon his reading time. However, he admitted that there were a number of other items following it (T. 12546, 12547 and 12549). In his newscast of March 1, 1950 (FCC Ex. 315) an item was deleted concerning a NLRB report to the effect that the result of a test between the left and

right wing of the Electrical Workers Union indicated that employees of five General Motors plants in Ohio, New York and New Jersey voted overwhelmingly for the right wing CIO Union as their bargaining agent. Nesbitt's explanation of this deletion was the same as his explanation concerning the Roosevelt item above. He, however, admitted that there were ten other items following the election item and that he wasn't running out of time at that particular point in his newscast (T. 12547-12548). In his newscast of July 12, 1950 (FCC Ex. 317) in an item concerning Senator Lyndon Johnson's proposal that the National Guard be called up and Congress pass legislation to get industry on a war footing, the following language was deleted: "Organized labor added its bit when a nine man committee was named to work with the government on national defense plans." No explanation was given concerning this item. Nesbitt admitted that there were nine pages following the item (T. 12552). In his newscast of December 5, 1947 (FCC Ex. 319) the words "organized labor" were stricken, and the words "union officials" were inserted. in an item which originally read: "If the proposal **is okayed** it will bring to some \$18,000,000 the amount organized labor seeks to defeat what **it considers** anti-labor legislators both on the national and state level." No explanation was offered by Nesbitt concerning this deletion. In his newscast of March 2, 1950 (FCC Ex. 320) in an item concerning the request

of the faculty members at the University of California for a signed statement opposing the loyalty oath of the University, the following was deleted:

"Now Citizens of the State have been asked to join the faculty 'to insist that the future of the university be held above the pride and prejudice of...The Board of Regents.'

"The faculty makes it clear that there is no argument over the university policy of excluding Communists. But--as one faculty member puts it--the majority are 'incensed that they should be singled out for an oath not required of other State employees.'"

Nosbitt's only explanation for this deletion was that he saw no significance to the part deleted (T. 12604).

401. Complete substantiation and corroboration of the entire pattern of the testimony given by Commission witnesses is to be found in the testimony of Stone whose position at the station is described above. Further, any significance sought to be attached to the testimony of other witnesses called by applicants to the effect that they had never heard Commission witnesses discuss such matters as are at issue in this proceeding is completely destroyed by Stone's testimony. The applicable portions of Stone's testimony on cross-examination follow:

"Q. Mr. Stone, during this entire period when you have broadcast news or broadcast any programs on KMPC, have you heard any conversations among the employees or any one of the newscasters that had to do with telephone calls that were received from Mr. Richards in respect of newscasts on KMPC?

A. Yes.

"Q. Were these conversations frequent among the newscasters?

"A. Sometimes they occurred with regularity and sometimes a week or ten days or more would go by and you would hear nothing at all.

"Q. Would these conversations have occurred throughout the period that you have been there up to the time that Roberts left KMPC?

"A. Yes.

"Q. Do you recall the subject matter of those conversations in respect of dealing with particular personalities or political groups?

"A. Yes.

"Q. Can you tell us what you recall of these?

The Presiding Officer: I think that you should state who spoke, because just a general conversation --

Mr. Cottone: Well, if Mr. Stone can state who spoke and whom he heard, I will be very glad to have him say so.

The Presiding Officer: Very well, sir.

The Witness: Lilienthal, the Roosevelts, Benny -- what's his name -- Benny Meyers, Wallace, and, of course, the Presidential race in 1948. You asked for personalities, didn't you?

By Mr. Cottone:

"Q. Well, personalities or subject matters, Mr. Stone. It doesn't matter.

"A. Charlie Chaplin, Helen Douglas.

"Q. Charlie Chaplin?

"A. Charlie Chaplin, Helen Douglas, Helen Gahagan Douglas, John L. Lewis -- is that enough?

"Q. Well, maybe I can ask you about some. General MacArthur?

"A. Oh yes. I was thinking of the ones on the other side of the fence.

"Q. Tom Dewey?

"A. Yes. Bridges.

"Q. Beg pardon?

"A. Bridges -- Harry.

"Q. Eddie Rickenbacker?

"A. Yes.

"Q. Bugsy Siegel?

"A. I don't know.

"Q. Now, can you tell us what, if anything, you recall as to these discussions about these various persons, and if you can tell us the people whom you have heard discussed and can say anything with respect to Mr. Richards' calls?

"A. The discussion about various people at various times usually boiled down to "Repeat the story as often as you can," if it was about those people whom he disliked, and play up the story if it was about people that he did like."

While the foregoing material is only a sampling of the corroborative evidence elicited from applicants' witnesses with which this record is honeycombed, it, nevertheless, serves to point up the extent to which such witnesses affirmed the Commission's entire showing.

C. IMMATERIALITY AND LACK OF PROBATIVE
VALUE OF APPLICANTS' REPUTATION EVIDENCE

403. Applicant placed on the stand well over a hundred witnesses whose testimony was intended to reflect favorably on the reputation of Richards and the applicants. The witnesses who so testified included government officials, school officials, doctors, lawyers, preachers, radio station owners and employees, advertising executives and salesmen, baseball players, football players and other sports celebrities, entertainers, automobile executives, either paid or volunteer leaders in civic organizations, and a host of Richards' personal friends. Their testimony was directed to such generalities as the favorable reputation of Richards and the stations for truth, veracity, patriotism, generosity, fairness, sportsmanship, impartiality, objectivity and civic mindedness. Such testimony is immaterial ^{1/} to the issues in this proceeding since it cannot possibly refute the positive and undisputed testimony of Commission witnesses showing Mr. Richards and the applicants to be unqualified as licensees in the light of the nature of the policies for operation of the stations ordered by Richards. However, assuming materiality of the

^{1/} Applicants' "reputation testimony" was admitted over the continued objections of Commission counsel upon the ground of materiality (T. 9351-9352).

evidence to the broad question of the general character of Richards and the applicants, it must be found for many reasons that all of the reputation testimony is without probative value.

404. An overwhelming majority of the persons who so testified were indebted to Richards and the stations for past favors or were looking toward them for favorable treatment in the future. Many of such witnesses were advertising executives. Substantially all of these either stated that they had done business in the past, were presently doing business with the stations, or were looking forward to such business in the future. Many were either paid or volunteer workers in civic organizations. It is not surprising that these, anxious to protect an important source of free publicity were willing to take the stand and make the innocuous and, in many cases, undoubtedly true statement that they had not heard anything bad about Richards or the stations' reputations prior to the time of the publication of the charges leading to these proceedings. The same may be said with respect to the testimony of the government officials, school officials and members of the ministry. Similarly, the automobile executives were undoubtedly grateful for and anxious to encourage the source of such programs as

F.O.B. Detroit, F.O.B. Victory, and Motor City Melodies, the express purpose of which was to sell the automobile industry to the nation (T. 16751-16752). Many of the radio station owners who testified had been the recipients of technical assistance or free program material from applicants and were undoubtedly pleased to concretely evidence their appreciation (see e.g. 17399-A, 17403, 17494). In view of the well known fluctuating character of employment in the radio industry and entertainment world it is not surprising that employees of other radio stations and professional entertainers were not unwilling to put in a good word for such a potential source of employment as three of the largest radio stations in the nation.

405. We do not suggest impropriety by witnesses testifying to good reputation of Mr. Richards or the stations. They could very well be honestly mistaken. Reputation testimony is readily obtainable from friends. But it must be weighed in that light. Illustratively, we point to the testimony of Ty Cobb, a sports celebrity called to the stand by applicants to lend color to their presentation. Cobb batted for applicants something less than his .367 lifetime average when he testified in response to a question concerning his first meeting with Richards:

"Well, I had met him in—been introduced to him—I couldn't say just where. It has been over 30 years, but I do remember that Mr. Richards out of his—in his liberal way proffered an automobile for my use during the summer, as I—I was in Detroit and my home being in Georgia, it saved me from shipping up a car for my use; so Mr. Richards used to give me an automobile for no charge or anything, just gave it to me for no charge or anything, just gave it to me for the use." (T. 10404)

While Mr. Cobb was undoubtedly sincere in giving his opinions that Mr. Richards' reputation in various respects was good, Mr. Richards' generosity to him, to which Mr. Cobb referred, undoubtedly had a good deal to do with his testimony.

406. A second observation pertinent to applicants' reputation evidence is the fact that few, if any, of the reputation witnesses were personally acquainted with any of the matters at issue in these proceedings. Such knowledge as they did have was obtained from a cursory reading of the daily newspapers. Further, there was no evidence that those from whom they acquired their knowledge of the reputation of Richards and the stations knew anything about the matters at issue. Considering the subtle character of Richards' operations this is not surprising. It is noteworthy in this regard that some of applicants' reputation witnesses who were confronted with Commission Exhibits in Richards' handwriting con-

taining such instructions as are at issue here, admitted that the documents contained matters prejudicial to Richards' reputation. Thus Mayor Bowron of Los Angeles stated:

"Of course I would be compelled—anyone reading these letters would—in truth must say that he is intolerant if he means what he says." (T. 8414)

and Lt. Governor Knight of California in response to the following questions stated:

"Q. And associating that with the fact that these were communications addressed to the people who were running his radio stations, what would you say with respect to his impartiality or fairness in respect of a policy of operation of a radio station?"

"A. He wanted the Republicans to win and the Democrats to lose."

"Q. What about the reference to the using of— with respect to Jewish speakers in that particular letter?"

"A. He referred slightly and uncomplimentary to Jews."

"Q. And what about his reference to the use of a Protestant and Catholic Minister on the program, but no Jews?"

"A. Just what he said. He said he didn't want Jews on his radio program for Easter."

"Q. And does a collection of that knowledge affect your judgment as to Mr. Richards' fairness and impartiality?"

"A. I think he was very partial on that subject."

"Q. And fairness?"

"A. I think he was very unfair to the Jews in his criticism of them."

"Q. And tolerance?"

"A. Well, you must remember you gave me about twenty letters here and I read them in a very short time. He was intolerant of the Jews and called them kikes in these letters."

"Q. When you testified as to his reputation, Governor Knight, you were unaware and had no knowledge of any such information as has been addressed to your attention while you have been on the witness stand here. Is that correct?"

"A. I never heard of it before today in my life." (T. 9461-9462)

William Kramer, a Jewish Rabbi from Cleveland, in response to a long hypothetical question by applicants' counsel summarizing facts concerning Richards' character which it was apparently believed tended to rebut the prejudicial material contained in his letters, stated:

"My opinion very simply is this: For a man to be considered by me or by others whom I feel to be competent as a person who is maliciously anti-Semitic, he need not be a complete scoundrel, but he can only be partially, and I don't regard Mr. Luckman, a football player, an expert on Jewish public relations; and the business about the trainers, I think that since you have made me an expert, I will be one.

.....

At any rate, I repeat what I said before, namely, that I have no personal first-hand knowledge on the basis—again I repeat, on the basis of what I read here I would have grave suspicion as to the character of the man. I would have grave suspicion but that he was a malicious person with reference to anti-Semitism." (T. 10975-10976)

Other witnesses, when apprised of the evidence in the proceedings, had no clear understanding of the concept of fairness in respect to controversial issues and the responsibilities of broadcast licensees in this respect as set forth by the Commission. (See, e.g., testimony of Daugherty (T. 11288-11290), Tenney (T. 12866-12868), Fifield (T. 11163-11165)).

407. Perhaps the most significant fact developed on the record concerning applicants' "reputation testimony" is the fact that applicants engaged in the unprecedented practice of indoctrinating their witnesses before they took the stand by providing them with the earlier testimony of previous well known reputation witnesses who had already testified to the good or outstanding reputation of Richards and the stations or by providing witnesses with elaborate and highly biased brochures published by the stations, or by doing both. An examination of the material renders the conclusion inescapable that it was designed solely for the purposes of: (1) providing the witnesses with answers to questions which counsel expected to elicit from them on the witness stand which would be favorable to Mr. Richards; and (2) instilling in the witness a feeling of antagonism, indignation and distrust toward the government agency responsible for bringing Richards and the stations to

hearing. A booklet entitled "Penalty for Patriotism, A Battle for Freedom of Speech" (FCC Ex. 290) was the publication which it appears was for the most part used in this practice. A review of its contents points up the basis for the above conclusions.

408. The booklet is bound in attractive covers in the colors of the American flag. On the inside of the front page, enclosed in a box, is a statement warning of the Communist menace. The first section entitled "Penalty for Patriotism" is headnoted as follows:

"This is a case history revealing how a governmental agency, going beyond its prescribed authority, influenced by the personal view of its individual members, and egged on by pressure groups with questionable motives, violates the principles of Democracy. Here is evidence of a trend in the philosophy of government that should be of deep concern to every liberty-loving American--should stir to action all who would preserve the freedoms that have made America great."

Thereafter follows a three page treatise on the rags-to-riches background of Richards, the phenomenal successes of the three stations, a carefully worded statement implying that the instant proceedings were inspired and fostered by Communist groups, Jewish groups, Eleanor and James Roosevelt, and a statement to the effect that the Commission's witnesses who had testified in the March

proceedings were not to be believed.

409. The next section of the brochure is entitled "No Slanting of the News—'Scripts Do Not Confirm Charges' Says Newspaper Editor". It reports the conclusions of E. Z. Dinitman, a newspaperman hired by applicants to do an analysis of those newscasts which were made available to Commission investigators when they arrived at KMPC. ^{1/}

This section also includes testimony, removed from context, of certain Commission witnesses at the March hearing and a reproduction of some of the more innocuous newspaper items originally in the possession of John Dehner, a former news editor, which were for the most part neither offered nor received in evidence.

410. The following three pages are entitled "These Stories Appeared in Newspapers, yet the Federal Communications Commission Is Accusing Radio Station KMPC of 'Slanting the News' for Including Them in Newscasts". Therein set forth are a large number of newspaper articles, many of which (24 of the 37) had not been offered or received

^{1/} There had been no testimony by Dinitman in those proceedings; nor was his report in evidence.

in evidence and no claim had been made that such items were broadcast (T. 8257).

411. The next section is entitled "Commission Witnesses Discredited" and begins with the following head-note:

"With one Commission witness admitting that he falsified a statement, another revealing participation in promoting the sale of stock in a company whose president is under indictment for grand larceny and others resisting every effort of the station counsel to introduce facts favorable to KMPC, the close of Commission's phases of the FCC hearing brought the following statement from: Hugh Fulton, Chief Counsel in the Hearing for Stations KMPC, WJR and WGAR."

Thereafter follows a statement made to the press by applicants' counsel some days after the termination of the March hearing before Examiner Johnson expressing amazement that the Commission had the effrontery to hold a hearing involving Mr. Richards, that the hearing had cost Mr. Richards a great deal of money to defend,^{1/} and again stated that Commission's witnesses were not to be believed and that the entire proceeding was an attempt on the part of the Commission to exercise powers of censorship.

^{1/} In this connection it appears pertinent to observe that had Mr. Richards refrained from expending funds for extra judicial statements by counsel and costly publicity releases such as the one under discussion his expenditures would not have been so burdensome.

412. The remaining 17 pages are headed "Many Protest FCC Action, Anirate Public Comes to Support of Richards and Stations". These pages include an editorial from the Saturday Evening Post, one from the Washington Post and the remarks of Senators Ferguson and Bridges contained in the Congressional Record. The material is all highly critical of the Commission's position with respect to this proceeding. 1/

413. The remainder of the brochure entitled: "Nation's Leaders Appeal to FCC" and "Friends Rally to Richards' Defense" consists of numerous extracts from letters from such persons as those discussed in pp. 265-267^{supra}.

414. The document is an extraordinary collection of half truths, distortions, innuendoes, slurs and outright falsehoods, coupled with a plethora of testimonials from persons wholly ignorant of such facts as are at issue here. It could hardly help but instill in the minds of the witnesses described above an artificial feeling of knowledge

1/ An examination of the editorials and remarks referred to above makes clear that they are predicated on the erroneous assumption that the Commission in this proceeding is exercising powers of censorship denied by the Communications Act. Needless to say, none of the Congressional remarks or editorials supporting the Commission's position and condemning applicants' counsel's tactics in presenting their case in this hearing were quoted.

concerning the reputation of Richards and the stations and a possible resentment against the Commission for holding the instant proceeding.

415. Further, throughout the entire hearing, KMPC gave its listening audience a highly biased account of the proceedings. Chief of the KMPC newsroom, McCulla, testified at the beginning of June he was directed by Reynolds "to take complete charge of all stories as concerns this hearing" and also "that I was to see that all stories that were put on the air regarding this hearing were cleared through me which has been done" (T. 11145). An examination of the newscast scripts covering the hearing (FCC Ex. 295, 1-95d) shows that McCulla carried out those instructions in a manner completely in conformance with those news policies of applicants that form one of the basic issues in this hearing. Such an examination fails to disclose a single instance where testimony unfavorable to Mr. Richards or applicants was reported, and only on rare occasions can one find any of the Commission's witnesses' testimony, its documentary evidence or its staff referred to in anything but unfavorable terms. The conclusion is inescapable that these highly biased newscasts were also part and parcel of applicants' formula for indoctrinating their reputation witnesses with a spurious basis for testimony in their behalf.

416. As before stated, "reputation evidence" as presented by applicants is of no probative value to prove or disprove those matters at issue here.

D. GENERAL PROGRAMMING

417. Applicants devoted a substantial portion of the 18,000 pages of testimony and the thousands of pages of exhibits which comprise their presentation to a showing of the general over-all programming of the three stations. The showing as presented is of dubious evidentiary value since: (1) relatively little of it has any direct bearing on the basic issues,^{1/} and (2) the showing is contaminated by the purposeful distortion of facts with respect to those portions heavily relied upon by applicants to prove "fairness and impartiality".

418. Applicants in their program showing appear to be under the misapprehension that a quantitative showing alone can rebut specific facts. Hundreds of pages of testimony and thousands of pages of exhibits were devoted to proof concerning such matters as the allocation of time by the stations to civic, veterans and charitable organizations; much was made of the fact that a substantial portion of the stations' program schedules were devoted to news presentations; great emphasis was placed on the elaborate preparations and large expenditures of money that went into the production of special programs such as F.O.B. Detroit; and in great detail

^{1/} The General Counsel objected to the offer of Applicants' general over-all program showing as being outside the scope of the issues. (T. 8272).

applicants' witnesses described the program service the stations rendered such specialized groups as the farmer. But this showing has no impact whatsoever on such issues as: the extent of Richards' instructions to applicants' employees to distort the news (Issue 1); the extent to which employees refused to carry out such instructions (Issue 2); the extent to which such instructions were carried out (Issue 3); and the determination, in light of the first three issues, whether Richards is qualified to continue as a broadcast licensee (Issue 4). It cannot be contended, because applicants devoted substantial amounts of sustaining time to public service organizations that this fact somehow supports a finding that Richards did not seek to utilize the stations for partisan political purposes. It cannot be contended that because KMPC broadcasts news on the hour every hour, Commission witnesses lied when they testified that such programs were, at Richards' directions, used exclusively to promote his personal views on social, economic and political matters? It cannot be contended that because F.O.B. Detroit cost \$5,000 per program to produce, the Commission's exhibits in Richards' own handwriting corroborated by the scripts of the F.O.B. programs themselves are somehow refuted (T. 16966, FCC. Ex. 127-168). Nor can it be contended that, because WJR expended large sums of money for mobile equipment and made frequent trips to outlying rural areas in connection with their farm program, the Commission showing is refuted that the station's farm editor was fired after many years service because he was believed to be a New

Dealer and it was feared that some of that philosophy might therefore seep through one of Richards' microphones (T. 16702-16703, 17695-17696 FCC Ex. 105 excluded, 568, 606, 607, 609, 610, 611, 621). Unless one is prepared to accept such inferences as proof, applicants' over-all program showing has no bearing on the first four issues upon which this hearing was designated.

419. Issues 5-9 have been rendered moot since Applicants, during the course of the proceedings, withdrew their application for transfer of control (T. 17712). It was contended that the issue that such an over-all showing could come within is the tenth. That issue reads:

"To determine whether, upon the basis of the information adduced pursuant to the above issues, a grant of said application would be in the 'public interest'."

It is clear from a reading of this issue that Applicants' over-all programming was not within the scope of this issue. For this issue only is a conclusionary issue not calling for any facts separate from those called for in the previous issues. The applicants' over-all program showing upon any matters other than programming having to do with utilization of the stations for the partisan purposes specified by Mr. Richards is utterly irrelevant. There was no effort made to show in any of this evidence that the programming was designed to achieve balance of all points of view on the issues of the day or as to which Mr. Richards had given instructions. In view of the nature of

the issues and of the direct evidence of the Commission, it was incumbent upon applicants, to have addressed their program showing to the question of what balance, if any, was achieved on controversial issues, assuming that any evidence of programming, unrelated to instructions from Richards, was at all relevant. The only evidence introduced by applicants which is remotely related to Station KMPC's treatment of controversial questions is that relating to the Open Forum Program (App. Ex. 4, Vol. 1, Sec 12C) which was sponsored commercial program with which the station had little to do. But whatever effect favorable to applicants, such evidence might otherwise conceivably have had, is destroyed by the fact that Mr. Richards deliberately sought to "stack" the program in favor of his point of view. This is pointed up in Commission's Ex. 268, an undated letter from Richards to Cleto Roberts, wherein he ordered Roberts to "Also see that Mel Uhl wins debate Sunday night". Richards also required those of his newscasters who had newscasts immediately prior to that program to "load" their newscasts with material supporting his views on the issues to be debated. The following testimony of Horn is illustrative:

"Q. Will you state whether or not you had a newscast at any time before a program known as the "Sunday Night Forum Program"?"

"A. Yes, I did."

"Q. Did Mr. Richards ever call you or have any conversations with you with respect to your newscasts and news to be included in that newscast while you were employed there at KMPC?"

"A. He did."

"Q. Will you state what, if anything, he told you?

"A. Mr. Richards usually called me preceding my newscast. It was on Sunday night at 8:00 o'clock, sponsored by the Seaboard Finance Company, and on which I replaced Frank Hemingway.

Mr. Richards called on many occasions, telling me exactly the type of news, and also telling me where I could find stories in which newspapers which would support the particular side he favored in the following open forum broadcast. So I did it" (T. 6703-6704).

420. Applicants' inability to show that any sort of program balance was ever attempted to equalize the effect of Richards' program instructions prior to the time when the instant charges were filed is emphasized by the heavy reliance placed in their showing on programming subsequent to the charges. The desperate scramble engaged in by Applicants to clean up their programming after the charges were filed is graphically demonstrated in connection with the complete "about face" policy they adopted with respect to persons of the Jewish faith.

421. With respect to the policies of the station in this regard, prior to the filing of the charges, the testimony of Chester Renier, the Program Director, corroborates the other evidence previously referred to concerning Richards' instructions relating to Jews and the fact that the station's programming policy, as directed by Richards, was to discriminate against that group. Renier interviewed many prospective employees for KMPC and usually either Reynolds or Geraghty asked him whether they were of the Jewish faith and whether they had changed their names. If the name sounded in any way Jewish, he was asked to check

further to determine whether the prospective employee was in fact Jewish (T. 4025). Renier recalled that he specifically asked Ewing and Flynn whether those were their true names. Reynolds, in denying that the station had a policy to discriminate against Jewish persons as employees, cited examples of persons who had been employed at KMPC who were of the Jewish faith (T. 1908, 6651). However, only one of these employees-Hy Averbach-broadcast programs. The others were salesmen or performed similar non-broadcasting duties except the musicians whose employment it was established was in the hands of a contractor (T. 6656).

422. So far as their programming in this regard is concerned, their showing speaks for itself. In their elaborate three volume program exhibit entitled "KMPC, THE STATION OF THE STARS" (App. Ex. 4), Volume 2 is devoted to summaries of KMPC "Public Service Broadcasts". Those summaries are broken down monthly on the basis of sustaining and commercial programs. The sections for 1947 and 1948 show that for the 15 month period prior to the filing of the instant charges (January 1947-March 1948) KMPC broadcast on a sustaining basis one 15 minute program on behalf of a Jewish organization, a Passover Program on April 5th featuring a Rabbi Goldstein (pages 17 and 40, 1947, Vol. 2, Ex. 4).

423. The section for 1947 also purports to show that 23 spot announcements were carried on a sustaining basis during the months of April, May and June in behalf of the Jewish Welfare Organization (see pages 41, 44, 50 of the 1947 Section,

App. Ex. 4, Vol. 2). No reference is made in the Exhibit in the foregoing sections to any programs sponsored by Jewish organizations being carried on a commercial basis over KMPC during the entire 15 month period. Oren Mattison, auditor of KMPC, when queried concerning the Jewish Welfare announcements, testified that the KMPC books of account show that payments were made for spot announcements to the station by the Jewish Welfare Fund for the period April-June 1947 in the amount of \$531.67, in addition to which 15% was paid by the Fund to an advertising agency (T. 13357-13359). Further, a full analysis of KMPC's program logs for the period April-June 1947 shows that 24 "non-commercial spot announcements" (sustaining) and 29 "spot announcements" (commercial) were broadcast during that period. (FCC Ex. 338). Applicants' witness, Rhines, for many years Chief Announcer, Program Director and Continuity Director at KMPC, on cross examination stated that it is customary for stations to contribute free announcements when a substantial number of spot announcements are purchased. He testified, however, that generally in the radio business national charities such as the Community Chest and the United Jewish Welfare are usually given sustaining time (T. 11555). Applicants' produced no explanation for the failure to report the 29 spot announcements for which the Jewish Welfare Fund was charged \$531.67. Nor did they even seek to show that any national non-Jewish agency

soliciting funds for charity, were ever required to pay for spot announcements. The 24 spot announcements reported as "sustaining" cannot be regarded as such since they were a part of a tie-in sale that rendered their character "commercial". Aside from the deception attempted in reporting these announcements as "sustaining", it is clear that applicants completely failed to show what they attempted to show, i.e. that there was no discrimination in KMPC's programming against Jews. The evidence with respect to these spot announcements shows exactly the contrary.

424. Applicants' program showing in the exhibit referred to above tells an altogether different story for the nine month period immediately following the institution of the Commission's investigation (April-December 1948). The section tabbed 1948 shows that in April of that year, a 12-minute program was carried sustaining commemorating the Jewish Passover, and 47 spot announcements were carried, sustaining, in behalf of the United Jewish Welfare Organization. In May, a 30 minute program was broadcast, sustaining in behalf of Jewish Relief, and 43 spot announcements were carried, sustaining, in behalf of United Jewish Relief. In July of that year nine spot announcements were broadcast, sustaining, in behalf of the "Blood for Israel" drive. In August, eight spot announcements were broadcast, sustaining, in behalf of the "Blood for Israel" drive. In September, six spot announcements were broadcast, sustaining,

in behalf of the United Jewish Synagogue, 15 spot announcements were broadcast, sustaining, in behalf of a "Jewish School"; ten spot announcements were broadcast, sustaining, on behalf of the Jewish Committee; and seven spot announcements were broadcast, sustaining, for "Blood for Israel". In October, six spot announcements were broadcast, sustaining, in behalf of the United Synagogue, 20 spot announcements were carried, sustaining, in behalf of the "Jewish School", and one spot announcement was carried in behalf of the Jewish Committee. On December 2, a five minute program was broadcast, sustaining, featuring a Rabbi Spelman.

425. In connection with this abrupt change of policy, it is interesting to note that for the three year period immediately prior to the institution of the Commission's investigation (1945-1948) KMPC's donations to Jewish charities amounted to \$35 of a total amount contributed to charitable organizations of \$5169.25 (less than 1%). However, for the two year period immediately following the institution of the investigation, of a total amount contributed to charitable organizations of \$1372.25, contributions to Jewish organizations amounted to \$326 (nearly 24%). (See, App.. Ex. 4, Vol. 1, Section 13).

426. The importance placed by Applicants on their "new" policy toward minority groups is pointed up by the fact that Applicants first three exhibits are pictures of Richards and Sid Luckman, a Jewish professional football player, and

Kenny Washington, a prominent Negro athlete. On the reverse of the picture of Luckman and Richards is the date March 22, 1948. Reynolds estimated that the pictures of Washington and Richards (KMPC's Exhibits 2 and 3) were made sometime in the summer of 1948 (T. 1783). If there could be any remaining room for doubt that Applicants engaged in a complete reversal of policy concerning the treatment of Jews over the stations after the investigation was instituted, the admissions of Frank Mullen (who was made president of the three applicant stations after the charges were made and under whose tenure the transfer applications were filed) and the similar admission of Reynolds, station manager of KMPC, that the station did in fact make unusual efforts to make time available to Jewish organizations after the charges were filed, should dispel such doubt (T. 7388, 8073). It is also to be noted in this connection that while Applicants subpoenaed to the stand a substantial number of Jewish Rabbis to testify concerning their appearance on KMPC's Prayer for Peace program (a program started in October 1948 at Mullen's suggestion (T. 8073)) which carried more Jewish Rabbis than ministers of any other denomination (App. Ex. 4, Vol. 1, Sec. 10, p. 17-20) they scrupulously avoided asking those persons the reputation of KMPC in the Jewish community.

427. From the foregoing it is apparent that Applicants' showing concerning the stations' policies in dealing with

Jewish persons and groups was for the most part truly "cooked up" evidence manufactured after the charges were filed in an effort to deceive the Commission and the Examiner into believing that the instructions given by Richards with respect to that subject were not carried out when in fact they were carried out.

428. In connection with their over-all program showing, applicants apparently rely heavily on awards given the stations and resolutions passed by various civic and governmental groups which endorsed the station's past operations. Such proof lends little support to their case. It would be strange indeed if three of the largest radio stations in the United States were not, over the course of two decades, able to marshall a substantial number of public service organizations who would go on record endorsing the stations.

429. It may be noted that from the evidence in the record it appears that the motives behind the applicant stations' desire for plaques and awards did not stem solely from a desire for recognition for public service faithfully performed but rather from an inordinate ambition on the part of Richards to receive kudos and a belief on his part that an impressive list of awards might in some way mitigate his conduct and the conduct of his stations if they were ever called to account in a proceeding such as the instant one. Applicants' Exhibit 440, an undated letter to Fitzpatrick in Richards' handwriting states in pertinent part:

"Don't forget to get Paley ^{1/} to send John (Patt) a letter of congratulations for winning two major awards. We might need it some day in the future."

When questioned about the above language in connection with whether he had conversations with Richards concerning the accumulating of awards that might someday be of use to the stations, Fitzpatrick testified:

"Well not in that light usually. Mr. Richards was a victim of a queer ailment. He was what we called 'plaque happy'. If he could get a plaque, why it was one of the greatest achievements that you could possibly have. He still loves to receive plaques. If we could just get a plaque now and then, why things went along smoothly and that is what we tried to do. We tried to get all the awards we could." (T. 17041).

430. In a similar vein to their reliance on awards, applicants also point to the fact that Station KMPC followed the practice of virtually the entire broadcasting industry in observing a 3 day period of mourning on the occasion of President Roosevelt's death, a course of conduct which could hardly have been avoided without attracting widespread attention. In this, as in the instance of the awards which are relied upon, applicants place themselves in the position of the man seeking commendation for refraining from blowing a trumpet in the cathedral!

431. In summary, Applicants' general program showing: (1) is riddled with trivia; (2) is unworthy of belief; and (3) does not meet the basic issues.

^{1/} William S. Paley, President of the Columbia Broadcasting System.

VII CONCLUSIONS

1. Over a long period of time beginning in the year 1943 and down to the year 1948, Mr. G. A. Richards, gave many instructions establishing newscasting and other programming policies at stations KMPC, WJR and WGAR, licensed to the corporations of which he was the chief official and controlling stockholder at all times discussed herein. He gave these instructions in writing, in person and by telephone to employees of each of the three stations. These instructions were deliberately designed to require one-sided, partisan, and biased programming over the facilities of these three stations in line with Mr. Richards personal viewpoints - political, social and economic.

2. In regard to news programming, these instructions covered a variety of subjects and individuals and were designed to distort, color and otherwise give a false quality to the news with the purpose of favoring individuals, ideas, causes, political parties and groups which Mr. Richards favored and to distort and otherwise give a false quality to the news with the purpose of discrediting other individuals, ideas, causes, political parties and groups which were disfavored by Mr. Richards. Mr. Richards directed the specific techniques by which he sought to accomplish these purposes.

3. In regard to newscasting policies, Mr. Richards gave instructions to discriminate against three principal groups of individuals, First, Democrats, including a large number of specified individuals associated with the Democratic Administration.

them in some respect. Mr. Richards attempted in some instances to require the broadcasting of fabricated news, specifically by seeking to have a newscaster imply in a newscast that Eleanor Roosevelt, wife of the late President Roosevelt, was drunk at the time of an automobile accident, and at another time, by seeking to broadcast an unfounded rumor that Mrs. Roosevelt and Henry Wallace were to run on the same political ticket. In at least one instance shown by the record, he required the broadcasting, as a news story, of a statement concerning Edwin Pauley's aspirations to a cabinet post, for which Mr. Richards cited no source and for which the newswriter whom he directed to write the story had no source. Another among many specific examples of a technique designed to give a false quality to news was an instance in which a newscaster who was one of applicants' own witnesses changed a wire copy story which dealt with the persecution of Jews by the Nazis so that the reference to "Jews" was deleted. This was plainly done in pursuance of the policy established by Richards that Jews were not to be portrayed in the news in any way eliciting sympathy for them. This particular item was used in at least one of the newscasts on November 23, 1947 in which a series of three items concerning Jews, referred to in paragraph 7 below were also used. **Fabrication was**

also involved in the newscaster's action in this instance because in substituting the word "inmates" in his newscast for the word "Jews" appearing in the wire copy, he had no personal knowledge whatsoever, but merely had an opinion or belief, as he stated, that persons other than Jews were involved in the ~~persocutions~~ referred to in the news item.

6. Further distortion of news and giving it a false quality was accomplished by the practice, which Mr. Richards required newsmen to follow, of reading newspaper editorials and editorial columns written by various individuals for newspaper use on straight newscasts. In some instances, he directed newscasters to read such editorials and editorial comment without identifying them as such. These various techniques were a deliberate abuse of the public interest by deceiving the public into believing that personal opinions were straight factual news accounts.

7. The record shows a great number of instances in which the policies of news distortion directed by Mr. Richards were carried into operation, as shown by the newsscripts which were available, namely those covering the period beginning September 29, 1947. Those covering the period prior to September 29, 1947 and going back to the beginning of the period of employment of the three witnesses (Roberts, Lowin and Starrels) whose discharge from KMPC led to the charges which culminated in

these proceedings, were available at the time of the discharge (February 6, 1947) but were destroyed or otherwise disposed of by station personnel prior to the arrival of Commission investigators at KMPC in April of 1948. In addition to the scripts for the period January 1, 1947 to September 29, 1947, the scripts for the period subsequent to September 29, 1947 had been combed by station personnel and parts thereof which consisted of specific items directed to be used by Mr. Richards were destroyed or otherwise disposed of by station personnel before the arrival of Commission investigators.

8. In the scripts which were available, perhaps the most flagrant instance found of news distortion directed by Mr. Richards was in the script of a Sunday newscast on November 23, 1947. In this newscast, deliberate linkage of Jews with criminal activities and Communism was accomplished by the deliberate juxtaposition of three separate news items dealing with these subject matters, and by deliberate and pointed identification as Jews of the individuals involved in the criminal activities, all for the purpose of creating in the minds of listeners an unfavorable impression of Jews from the fact that the three items involved Jews in Los Angeles, Washington and Palestine, all of whom were involved in criminal, alleged criminal, or otherwise nefarious activities including, in the case of the Palestine

Jews mentioned, Communistic activities. Emphasis of these stories, designed to discredit Jews was ordered by Mr.

Richards by having each newscaster pass these items on to the next newscaster for repetition in each newscast of the day.

9. The policy to favor the Republican cause and to defeat the Democratic Administration by the use of his stations was directed by Mr. Richards and implemented in very great degree in other aspects of the programming of the stations. In many letters to the officials and employees of his three stations he laid down a clear-cut, hard and fast policy applicable from at least as far back as the year 1943 down to the national elections of 1948 that the facilities of the three stations were to be used in every way possible to defeat the Democratic Administration. This was particularly demonstrated in connection with the 1944 national elections. The most extensive and expensive program which he sought to use for his own partisan political purposes was a program broadcast during 1944, "Victory F. O. B.", which originated at Station WJR and was broadcast over the Columbia Broadcasting System, and was carried on KMPC and WGAR. He attempted in every manner possible, and in many instances successfully, to utilize this program to accomplish, by well-planned subtleties in the continuity of the program and by means of particular types of speakers, a discrediting of the Democratic

Administration along the lines taken by the Republican Party in the campaign of 1944, with the admitted purpose of inducing the listening audience to vote to defeat the Democratic Administration. In Mr. Richards' selection of speakers for the program, those with his political viewpoint were favored. He also specifically directed that "No Jews" be invited to speak on the program.

10. In the 1944 campaign, the three stations in the case of a series of political broadcasts by Rupert Hughes, initiated by Mr. Richards, flagrantly discriminated in favor of the Republican Party by contributing part of the costs of the programs without affording time on the same basis to the Democratic Party, which, in view of the manner in which the costs of the broadcasts were divided among the three stations, had no way even of demanding treatment equal to that given the Republican Party. In addition, Station KMPC, in compliance with the policies laid down by Mr. Richards to favor the Republican Presidential candidates and in clear-cut violation of the provisions of Section 315 of the Communications Act of 1934, as amended, and Section 3.190 of the Commission's Regulations, gave great amounts of free broadcast time to the 1944 Republican Presidential and Vice-Presidential candidates without affording equal opportunity for the same amount of free time to the Democratic candidates. In these instances, not only were there false announcements on the air as shown by the station's program logs, that these broadcasts were sponsored, and therefore paid for, by the Republican Party in clear violation

of Section 317 of the Act and Section 3.189 of the Commission's Regulations, but the falsity of the announcement prevented the Democratic Party from knowing that free time had been given the Republican candidates so that that Party could even make a demand for similar amounts of free time on behalf of the Democratic Presidential and Vice-Presidential candidates.

11. The Rupert Hughes incident is of particular significance, illustrating the extent of Mr. Richards' determination to use licensed facilities controlled by him for his partisan purposes and refuting the claims made in these proceedings that Mr. Richards merely expressed "opinions" or "beliefs" that the Republicans should win, but not "orders" or "instructions" to use the stations' facilities to this end. Mr. Richards originally planned to broadcast the Rupert Hughes programs on a fully sustaining basis. He was warned by his attorney against the use of this series of political programs either on a sustaining basis or upon a basis where sponsorship of the programs by the Republican Party was initiated, as they actually were, by Mr. Richards on the stations. In his advice, Mr. Richards' attorney pointed out the possible violation of Section 315 of the Communications Act involved in Mr. Richards' proposed plan to broadcast the Rupert Hughes

series on a sustaining basis. He also pointed out the possible violation of the Corrupt Practices Act which the proposed plan involved. In deliberate disregard of his attorney's advice, Mr. Richards engaged Rupert Hughes and then, through the managers of the three stations, sought to induce the purchase of the program by the Republican Party in Los Angeles, Detroit and Cleveland. He was successful in Los Angeles and Detroit in procuring such sponsorship of the program. But in further deliberate disregard of his attorney's advice against carrying the program sustaining, the program was carried on the three stations on a partially sustaining basis.

12. The same policies of discriminating in favor of Republican as against Democratic candidates were projected into the station's operations in connection with the Congressional elections of 1946 in which Richards repeatedly directed the use of the stations to aid in the election of as many Republican Congressmen as possible. Actual discrimination was shown in at least one instance in which a request for time on KMPC by a Democratic candidate for Congress, Helen Gahagan Douglas, was denied on the grounds that the kind of time requested was not available, whereas the station could have cancelled sustaining programs scheduled in the time requested as it did in order to honor a request for similar time made by the Jeffersonian

Democrats, a political group supporting Republican candidates, which had submitted their request just one day before the request on behalf of Mrs. Douglas. In fact, time was given the Jeffersonian Democrats on two of the days for which time was requested for Mrs. Douglas.

13. The national elections of 1948 and the campaign period preceding those elections occurred several months after the Commission instituted the investigation which culminated in these proceedings. Nevertheless, for a long time before the investigation, clear-cut directives were issued persistently and continuously by Mr. Richards to the effect that the facilities of the stations were to be used to achieve the defeat of the Democratic Administration in the forthcoming national elections. In the year 1947, he originated a series of sustaining programs at KMPC - - "Report from Congress" - pursuant to arrangements he personally made with the Radio Director of the Republican Party to obtain transcriptions of speeches by Republican Congressmen. No similar arrangements were made with the Democratic Party. In a series of eight programs, not a single Democratic Congressman was invited to, or did, appear on this series. Republican Congressmen not elected from the California area but high in the ranks of the Party spoke by transcription in this series. ^{1/} In many cases their speeches were broadcast twice on KMPC. Four of the thirteen congressmen from the Los Angeles area, all Republicans, spoke on the series.

^{1/} Repeated efforts to obtain from applicants the production of the scripts or transcriptions of the Report from Congress speeches were unsuccessful. The purpose was to ascertain the extent to which they dealt with controversial subjects.

In some instances, the broadcasts of their speeches were repeated on KMPC. Not a single Democratic Congressman was invited by the station to participate in this series although four of the Congressmen from the Los Angeles area were Democrats. When his obligation with respect to providing balance was called to Mr. Richards' attention in connection with the proposed controversial broadcast by the Republican Majority Leader in the 80th Congress, Congressman Halleck, Mr. Richards refused to recognize any obligation to provide time to the other side on his own initiative. His attitude, pure and simple, was that they should "ask for time" if they wanted it, despite the fact that he manifested no similar attitude with respect to Republican Congressmen. As to them, he was ready to take a determined initiative in providing sustaining time, as was apparent in the very case under discussion, the Congressman Halleck broadcast, which he insisted be broadcast against the advice of his officials and employees.

13. Despite the provisions of Section 317 of the Communications Act requiring the announcement of the fact that the broadcasts in this series were furnished by the Republican National Committee, and despite the provisions of Section 3.189 of the Commission's regulations which make it even more clear that announcement of such fact was required, in not a single instance, as shown by the program logs and the announce

sheets with respect to the Report from Congress programs, was there any announcement of the fact that the transcriptions were furnished by the Republican National Committee.

These additional violations by KMPC of Section 317 of the Act and Sec. 3.189 of the Commission's Regulations must be found to support the findings with respect to the discriminatory use of the facilities of the station to favor one political party over another pursuant to orders from Mr. Richards.

14. The record discloses innumerable other instances wherein Mr. Richards' orders and directives prescribed policy in respect of programming in the years 1947 and 1948 which were reflected in the stations' operations. Thus, particular individuals favored by him were favored in birthday programs on KMPC, while other individuals disfavored by him were not. Political events of the Republican Party were accorded an emphasis and favoritism in the programming of KMPC not accorded to similar events of the Democratic Party as was apparent by comparison of the treatment accorded in 1948 to the Republican Party's Lincoln Day speech by Governor Thomas E. Dewey, and the much less favorable treatment accorded the Jefferson-Jackson Day speech by President Truman a few days later.

15. The beginning of the year 1948 marked the renewal, on a more intensified and determined basis, of efforts by Mr. Richards to mobilize all the resources of his three stations for the partisan purpose of accomplishing the defeat of the Democratic Administration and the election of the Republicans in the forthcoming national elections. In summoning the top officials of his three stations to Los Angeles to high level policy meetings relating to the operations of his three stations, Mr. Richards keyed the purpose of these meetings as follows:

"I am glad to welcome the heads of our three stations and I am looking forward to some very constructive meetings during the next five or six days.

As you know, new developments are coming along very fast in the radio industry and we will have important decisions to make regarding FM, television, clear channels, and so forth.

I place in importance, over and above all these various individual problems, the all important one of a new administration in Washington. Again, I warn you all that without this change this year, our great Country is in for a terrible going over. As I have been trying to point out and sell you officials for the past seven or eight years, no country can continue to carry the burden of a spend and elect administration for ever. We must use very legitimate means within the framework of our Constitution to help change this incompetent, communistic-dominated administration. Without a change in the administration this Fall, we are bound to drift into some sort of socialistic

screw-ball form of government, which will make it impossible for ourselves and the entire world to ever hope to get back on its feet.

We need now vigorous, honest, Christian leadership. The kind that Dewey, Taft, or MacArthur could furnish. My personal preference, as you have known for years, is Dewey. He is a fine outstanding, successful, progressive, honest young American, who gets things done. He is a Christian man, with a fine wife and family, who all America would be very proud to look up to and follow his leadership. He will never let our Country down and will make a wonderful president.

Let's leave these meetings with a firm determination that we will plan and work and do as our forefathers did: - fight with every thing possible to make this change. 1948 will go down in history as the year America decided not to go Communistic.

When you return to your important posts, I know you will work and plan during every waking hour of the day between now and November to help in every conceivable way to win this great fight. When the battle is won, I am sure that you will all be grateful for the opportunity that you have had to serve this great Country of ours. Please give my best regards to every member of your splendid organization and encourage them all to get into this greatest of all crusades." (FCC Ex. 6)

16. At about the same time, he wrote to Cloto Roberts, Director of Public Affairs at KMPC: "Please get up any suggestions you have for our meetings Jan. 20th with all three sta. mgrs. Especially suggestions that will help win the election this fall. That's the #1 Job to do." (FCC Ex. 17).

17. In one of the meetings held at this time with his top officials he repeated his assertions that they must work to defeat the Democratic Administration and if they did not see their duty in that way "now is the time to get out." He refused at this meeting to regard it among the obligations of his stations to broadcast the proceedings of the forthcoming Democratic National Convention in connection with discussions of elaborate plans for the coverage by the stations of the forthcoming Republican National Convention.

18. It was following these meetings that Richards, learning that Roberts had defied him in broadcasting remarks concerning General MacArthur which Richards regarded as detrimental to the General's presidential chances, had Roberts discharged. That discharge was consistent with Richards' determined attitude that his officials must be subservient to his orders to utilize the facilities of the stations controlled by Richards for the partisan purposes so clearly delineated. An example was made of Roberts to deter other officials or employees who might be similarly inclined to refuse to accept those purposes as part of their responsibility and duty as officers and employees of the station. This fact is attested by the general manager of station KMPC who on the eve of firing Roberts, advised Richards in writing that

he was going to fire Roberts unless Roberts would "go along 100% with company policies. These policies are: A. to do everything in our power to elect a new administration."

19. With the stage set by this action, which was sure to give pause to any official or employee of the three stations who might have been inclined to disobey Richards, it was obviously the clear intention of Mr. Richards to utilize the three stations in a way perhaps even more partisan than they were used prior to the 1944 national elections to exploit heavily the political points of view he espoused to secure the election of those candidates favored by him. He had had in progress, in somewhat similar fashion to his efforts in connection with Rupert Hughes, negotiations looking to the engagement of Upton Close as a commentator (FCC Ex. 216). But a few days after Roberts was ^{1/} fired, the situation at KMPC was beginning to come to light. On February 10, 1948, Reynolds, KMPC manager, wrote Upton Close, terminating the pending negotiations with Close (FCC Ex. 218). Shortly thereafter, the Radio News Club filed a complaint which led to the Commission investigation directed on March 19, 1948.

1/ On February 6, 1948, the night Roberts was fired, Roberts telephoned Reynolds and advised him that he was going to tell the trade press the truth as to the reasons for his discharge, stating that he was telling Reynolds so that Reynolds could call the press and give his side of the story (T. 461, 5648).

In Hollywood Reporter for February 11, 1948 there was an item referring to the "news department shakeup at a local station" concluding: "There's a rat's nest that could stand an F.C.C. smoke-out." (FCC Ex. 7, excluded).

20. Part of applicants' proof in these proceedings consisted of the programming of the stations--mainly in the period following the institution of Commission proceedings. It was clear on the record that with a Commission investigation impending, Mr. Richards sought to revise the policies of Station KMPC at least, in the hope of averting formal proceedings **against** that station. On March 11, 1948, while enroute to Detroit for a Birthday celebration at WJR (T. 508,2431) he wired Reynolds:

"Alfs wired no changes permitted in hearing^{1/} so please concentrate next ninety days on good programs better sales and good news about good Americans also good wire about things on my birthday. Good luck." (FCC Ex. 8)

It was not possible, because of Mr. Richards unavailability for questioning, to establish by his own sworn admissions that this telegram was intended to "clean up" KMPC operations at least during the next 90-day critical period when an investigation by the Commission might be in progress. But this was, nevertheless, plain from other evidence, including the marked contrast in the programming of Station KMPC after the charges became public, particularly in regard to time for Jewish causes, and the admissions of Reynolds and Frank Mullan that an effort was made towards improvement in view of the charges (T. 8073, 7499).

^{1/} The reference is to competitive hearings which were then pending on television applications by WJR and WGAR (T. 511).

21. There cannot be the slightest doubt upon this record that Mr. Richards' communications, described in the foregoing findings, were not mere "expressions of opinions or beliefs", but were clear-cut, definitive orders establishing policy at the three stations. Mr. Richards did not come to the witness stand, despite the efforts of the General Counsel to secure his appearance, but his counsel contended repeatedly that the various expressions and communications testified to by many witnesses and shown in many exhibits were not orders, directives or instructions. This contention goes, of course, to Mr. Richards' intentions and to the understanding which his officers and employees had of the intentions behind the various written and oral communications.

22. Mr. Richards failed or refused to take advantage of the opportunity given him to state what his intentions were, under conditions in which the sincerity or insincerity of his assertions on this score could have been judged in the light of his demeanor under oath and the nature of his sworn answers to questions. But the intent that his many oral and written communications to officers and employees were to be orders, directives and instructions is nevertheless plain from the testimony of many witnesses. It is shown by the persistence of his calls to his employees and by his manner of expression.

It is shown by the imperative tone in his written communications. It is shown by the great number of instances established by the record in which newscasts and other programs actually reflected the desires for partisan programming expressed in Mr. Richards' oral and written communications to the officers and employees of the three stations. It is shown from his own admitted attitude of indifference to the danger of the possible loss of his licenses involved in the course of conduct he insisted upon following. It is shown by the tone of acquiescence in Fitzpatrick's letters to Richards. Last but not least, it is shown by many facts proving that an employee's refusal to comply with Richards' oral and written communications led either to his discharge or to a situation whereby the employee was forced to resign.

23. Mr. Richards' refusal, expressed by his counsel, to come to the witness stand suggests not merely indifference to his responsibilities as a licensee; it suggests that he had no defense or bona fide explanation of the overwhelming amount of evidence in the record which indicates his complete disregard of his responsibility, as a station owner, to operate the station's programming under policies of fairness and non-partisanship. Under the circumstances surrounding this refusal to appear, the reasons given for his non-appearance are gravely suspect. For, in the face of uncontradicted evidence showing the great extent

of physical activity engaged in by Mr. Richards, during the very period that the hearings were in progress, including several business trips to and from the East, attendance at football games, baseball games, late attendance at poker parties, and other activities of a strenuous nature, his refusal to appear can only be construed to reflect either an attitude of contempt for the Commission's processes or an unwillingness to stand up to the charges disclosed by the record. Had the evidence clearly established that his appearance might have entailed serious consequence to him in view of his heart condition, another situation might have been presented. But among the many reasons for doubts on this score was the admission of one of his doctors that in one instance he "stretched his medical conscience" in behalf of Mr. Richards, "a wealthy client"; another doctor, after denying under oath that he had any personal friendship for Mr. Richards, was forced to admit it when confronted with his own letter describing Richards as a "personal friend" (T. 7269, 7272). And, despite the doubts left on the record as to the reliability of the opinions of Mr. Richards' doctors, Mr. Richards' counsel refused to agree to permit physical examination of Mr. Richards by an impartial doctor or doctors, giving as his reason that

this would "harass" Mr. Richards! ^{1/}

24. In the light of these circumstances, neither the examiner nor the Commission can give any weight or credence to

I/ It was certainly not unreasonable on the General Counsel's part to request examination of Mr. Richards by impartial doctors. His request followed a well recognized and accepted procedure. It was recently followed by a Senate Committee in the Investigation of Organized Crime in Interstate Commerce pursuant to S. Res. 202. When a subpoenaed witness claimed inability to testify on the grounds of health, the following colloquy took place (p. 1201):

"Mr. Halley: Mr. Chairman, in view of the fact that the witness has created an issue, I would like to ask for a stipulation so that the committee may appoint a physician who would be permitted both to examine Mr. Costello and to consult with the physicians who have already treated Mr. Costello.

The Chairman: Is there any objection to that, Mr. Wolf?

Mr. Wolf: There is absolutely no objection to that."

The "Mr. Wolf" referred to above was Mr. Costello's counsel. The "Mr. Halley" referred to above was the Chief Counsel for the Senate Committee, and is the "Halley" of the firm of "Fulton, Walter & Halley", counsel for applicants and Mr. Richards in these proceedings.

assertions or communications ascribed to Mr. Richards which are claimed to show a contrary intent than that established by the testimony of so many Commission witnesses and by so many of Mr. Richards' own written communications. In respect to such assertions, including those to the effect that he desired his officers and employees to "comply with Commission Rules and Regulations", it is a sufficient answer that these assertions were not backed up by Mr. Richards, under oath, nor were they tested by cross-examination of Mr. Richards. They can, therefore, have absolutely no probative value, let alone competence, as against the tremendous mass of sworn evidence which indicates that Mr. Richards had no concern whatsoever for Commission Rules and Regulations, particularly in situations where he thought he could get by without being caught, or where he thought, to use his own expression, that "the FCC can't ruin us with Dewey in." (FCC Ex. 619)

25. Throughout these proceedings, Mr. Richards and the applicants have been guilty of the most deceitful kind of conduct in their dealings with the Commission, particularly in respect to false representations made on matters involved in the issues in these proceedings. Mr. Richards submitted to the Commission on September 3, 1948, an affidavit in which he denied all of the charges made against him concerning instructions he had given to discriminate in the programming of the stations in favor of certain political parties, causes, or candidates and against other political parties, causes, or candidates, and in which he also denied instructions "or even suggestions" for unfavorable or prejudicial treatment of Jews or any other religious or racial group. But on February 24, 1949, Mr. Richards submitted to the Commission a petition in which he sought to avoid a hearing on them scheduled to be heard by Commissioner E. M. Webster in Los Angeles on March 23, 1949. In this petition, he completely contradicted the denials he had made in his affidavit to the Commission. He made assertions admitting the truth of portions of the charges which he had previously denied. In this petition Mr. Richards also expressed a desire for "an opportunity to admit the wrongfulness of certain acts."

26. The assertions in Mr. Richards' affidavit, denying the course of conduct engaged in by him in the programming of stations, have been clearly established by the record herein to have constituted misrepresentations to the Commission. The petition, which is contradictory to that affidavit, must necessarily be found similarly to establish that the assertions in the affidavit were deliberate misrepresentations, calculated to deceive the Commission. Moreover, Mr. Richards' assertions to the Commission in the petition were contradicted by applicants' present counsel when he stated on the record that the petition was filed with the Commission "as part of what might be comparable to settlement negotiations." This assertion constitutes an admission on the record that the statements in the petitions were lacking in candor and sincerity. These are admissions which compound the deception which originated in the untruthful assertions in Mr. Richards' affidavit.

27. In connection with the affidavit submitted to the Commission by Mr. Richards on September 3, 1948, additional material was submitted on behalf of the applicants purporting to show, among other things, non-partisan handling of programming involving political candidates. In a document purporting to show all requests for political time made to Station KMPC during the

period 1944 to 1948, and the disposition made of such requests, it was represented to the Commission that only one broadcast totalling 15 minutes on behalf of the Republican Presidential and Vice-Presidential candidates in 1944 had been carried on KMPC whereas two programs with the total time of 47 minutes had been carried in behalf of the Democratic Presidential candidate in 1944. The record establishes that this entire document was grossly incomplete and inaccurate; that the actual situation was that KMPC had carried in the 1944 political campaign period 40 programs, totaling almost 20 hours in behalf of the Republican Presidential and Vice-Presidential candidates, none of which was reported to the Commission; that instead of two programs carried in behalf of the Democratic Presidential candidate in 1944, there were no programs carried in behalf of such candidates.

28. From the evidence of the applicants' witness, Baird, who prepared this document, it was irrefutably established that all of the information upon which a correct report could have been made to the Commission on this matter was in the possession of Baird at the time he prepared it, but that he deliberately omitted a great number of broadcasts carried on behalf of the Republican candidates, of which he was fully aware from the documentary material available to him at the time and with which he was fully familiar. The conclusion

is inescapable that the misrepresentation on this matter was wilfully designed to give to the Commission a false impression of balance in political programming of KMPC as well as to conceal the fact, previously mentioned, that great quantities of the time to Republican candidates which the applicants failed to report had been given without charge by the station, without according similar treatment to Democratic candidates.

29. Further deception was involved in connection with the filing of applications for transfer of control of the applicants on April 18, 1949. In these applications, the reasons given for the transfer were Mr. Richards' "poor health", which "renders necessary the elimination of responsibility and anxiety normally adhering to the licensee of a corporation." Applicants' counsel established by their own statements on the record that the reasons given to the Commission for the filing of the transfer applications were completely untruthful. For, in petitioning, on or about December 18, 1950, to dismiss the transfer applications, counsel asserted that the transfer applications had been filed because of Mr. Richards' belief that the naming of trustees would obviate the necessity for protracted and expensive proceedings. This assertion is obviously inconsistent with the assertion in the transfer applications. There is also implicit in the assertions

of applicants' counsel, the admission that Mr. Richards in stating that he desired to retire because of his health, deliberately attempted to deceive the Commission. Mr. Richards said nothing in that answer nor anywhere else in the application which even suggested that the proposed transfer of control was to avoid a hearing. He has now through his counsel repudiated the reason given, namely the state of his health, and has in effect admitted that neither the state of his health nor his age (he is now two years older) require his retirement. This must in turn mean that his health has either improved to the point that he may safely continue active management of his stations without voting trustees, or that his health never was such that he needed to relinquish such control. Either conclusion involves Mr. Richards in serious misrepresentations to the Commission.

30. In a further attempt at deception of the Commission, Mr. Richards conspired with his counsel in connection with the accusations made by his counsel that the Commission's staff had "concealed, suppressed and destroyed evidence" once available through Radio Reports, an organization which monitored radio station broadcasts (See General Counsel's Motion to Expunge). Mr. Richards was guilty of deliberate deceit in permitting his counsel to claim ignorance of the existence of such an organization when Mr. Richards had personally known of the organization for several years. This was established on the record without contradiction. The deception was particularly deliberate in the light of the fact that Mr. Richards himself was, in effect, a client of Radio Reports,

through the publicity organization he had employed during **this hearing.**

31. Applicants attempted to refute the testimony of Commission witnesses by cross-examination designed for three purposes: The first purpose was to attempt to establish that the witnesses could not recall specific items omitted from their newscasts upon directions of Mr. Richards. In this, the most that the applicants succeeded in establishing was that the witnesses admitted to their inability to recall specific items omitted, it being obvious that the non-availability of the complete news file at KMPC made it impossible to do so. For it is clear that any newscaster or news writer having handled thousands of news items over a given period of time is not proven to have lied in testifying to carrying out instructions given several years ago if he is unable to give the details of specific items not used pursuant to such instructions.

32. The second purpose was to attempt to establish, by confrontation of Commission witnesses with selected items from their newscasts, that the instructions testified to on direct examination were not carried out. In most instances the items selected completely failed to meet or disprove the assertion made on direct examination. A specific example was the attempt to disprove Starrels' testimony that he "cut down" on Palestine news on Richards' orders by introducing a great number of items on Palestine

out of Starrels' news scripts. This obviously refuted nothing since a determination of whether there was a deliberate reduction of Palestine news could be made only by comparison of the news scripts with wire copy over an extended period of time. No such procedure was of course attempted by applicants. In other instances, the items so selected with which to confront Commission witnesses were not of a nature which were either favorable or unfavorable to particular individuals who were the subjects of instructions by Richards and accordingly, they did not disprove either the instructions testified to or the effectuation of the instructions. In still other instances, the items selected with which to confront Commission witnesses, were taken from days when Mr. Richards was not in the signal area of KMPC. This was particularly true of a whole series of items taken from Roberts' commentaries relating to the matter of Lillienthal's confirmation as Chairman of the Atomic Energy Commission which were concededly favorable to Mr. Lillienthal and therefore contrary to Mr. Richards' instructions. Many, many other items of a similar nature were so utilized by applicants' counsel, one of which was an item which was used in a commentary prepared by Lewin in which a favorable news item about Mrs. Eleanor Roosevelt was included. But this item was used on a day, September 24, 1947, when Mr. Richards was not in the signal area of KMPC.

33. The third purpose was to raise a false issue as to the credibility of Commission witnesses by a smearing, libelous type of cross-examination. In not a single instance were these tactics successful. Efforts to link Hall and Roberts with the defalcation of the Davis Motor Company, the accusations against Roberts of theft of documents, the penetrating inquiry into Horn's marital life in an effort to create a false impression of bigamy or violation of the income tax laws, all of these failed dismally from an evidentiary standpoint as did the scandalous and malicious efforts to in some way link Commission witnesses with Communism. Many of the Commission witnesses had distinguished war records. The evil of trying to cast reflections on the patriotism of these men, some of whom had been in the thick of the fighting for our country to protect with their lives democracy and our way of life, was unmatched for sordidness by any of the many other reprehensible tactics engaged in by applicants' counsel throughout these proceedings.

34. It was apparent from the cross-examination of Commission witnesses that an extensive investigation had been conducted into their private lives in a fruitless attempt to uncover "dirt" with which to besmirch their characters. This too ended in utter failure. It must be found from observing the appearance, manner and demeanor of the former employees called as witnesses by the Commission and listening to their testimony, that they testified courageously, forthrightly, truthfully and accurately, at great economic risk to themselves, in the face of a ruthless campaign of vilification against them. These were men who were willing to risk their economic future to testify to the truth. Applicants' counsel can hardly say the same for the man in whose behalf they have denied the truth of the testimony of these Commission witnesses, the same man whom applicants' counsel refused to place on the witness stand and thus subject his veracity on these subjects to the acid test.

35. It must be concluded that none of the witnesses for the Commission who were subjected to this vicious and

revengeful attack because of their temerity in testifying against Mr. Richards were not in the slightest degree impeached, nor was there any doubt cast at anytime on their credibility.

36. In marked contrast, was the proven falsity of the testimony of several of the witnesses called by the applicants who denied instructions by Richards. Chief among these was Hemingway, who, on cross-examination was completely, and unqualifiedly proven to have lied on the witness stand in practically every assertion made by him under direct examination. In close competition with Hemingway for falsification of facts under oath was Baird, whose deceit in his testimony concerning the false record of political broadcasts submitted to the Commission in September 1948 was matched only by his false testimony denying instructions from Richards concerning news policies. In addition to the contradictions on the latter subject within Baird's own testimony, he was flatly contradicted on this subject by Chandler, a rebuttal witness called by the Commission, who was employed by Station KMPC at the time he testified and who therefore would have had every reason for not wishing to testify unfavorably to Mr. Richards. (T.14580-82)

37. Not to be excluded from the group of applicants' witnesses whose denials of instructions by Mr. Richards were

obviously falsified was Reynolds, the KMPC station manager, whose testimony on this subject was characterized by a long series of contradictions and convenient lapses of memory whenever questions were asked him by Commission counsel. In strange contrast, were Reynolds' flashes of recollection in answering the same questions when they were put to him by applicants' counsel. Typical of the foregoing was his entire line of testimony, which was clearly incompetent (and admitted over objection of Commission counsel) to the effect that Richards did not give instructions as testified to by Commission witnesses. Reynolds' testimony was clearly incredible, in addition to incompetent, in view of his own admission that his testimony was not based upon any personal knowledge (which is itself questionable) but that it was based upon "personal belief" arrived at after reading the Dinitman Report and after receiving reports from KMPC advertisers that they were aware of no news slanting on KMPC (T. 684, 2138 et seq.).

38. Complete corroboration of the Commission witnesses who testified as to instructions by Richards concerning news policies, was provided by a large number of applicants' own witnesses. This was true of the testimony of Berger, Rhines, Flynn, Nesbitt, Stone, Turner and Hemingway.

1/ See, for example, Reynolds' testimony on the first day of the hearing (T. 92) when "he could not recall" that any statement made by any witness at the former hearing was not true, and his testimony the very next day when he suddenly developed the recollection that most of the testimony was false and that he wished to revise his answer of the previous day (T. 209 et seq.).

39. Many witnesses were presented by the applicants to testify to the good reputation of Mr. Richards for "fairness and impartiality toward all racial, religious and political groups." This testimony was supplemented with a great amount of unconvincing testimony purporting to demonstrate Mr. Richards' friendship and impartiality to individuals who are Jewish or Negro. Most of this evidence was in fact manufactured for the purpose of the hearing. Thus, much was made of photographs taken of Mr. Richards with Jewish and Negro personalities after the date of the publication of the charges which culminated in these proceedings. Other evidence purported to show that Mr. Richards had made contributions to Jewish charities. Here again, it was glaringly evident that Mr. Richards' generosity to Jewish causes soared tremendously after the Commission's investigation began.

40. But all of such evidence was no more than a trick substitute, and not a real test of Mr. Richards' fairness and impartiality in respect to the operations of his stations. Those witnesses who testified to his reputation for fairness and impartiality were not aware, in so testifying, of the matters established upon this record pertaining to that question. Indeed, two distinguished witnesses, the Lieutenant Governor of California and the Mayor of Los Angeles did not conceal

their feelings that they could not have testified to Mr. Richards' fairness and impartiality towards racial and religious groups in the light of the facts on the record indicating the contrary. A third reputation witness, a Jewish Rabbi subpoenaed from Cleveland, further typified the attitude of honest witnesses on this score. In response to a hypothetical question by applicants' counsel which contained assumed facts concerning Mr. Richards' friendship toward certain Jewish sports personalities and concerning his generosity to Jewish charities, Rabbi Kramer replied as follows:

"My opinion very simply is this: For a man to be considered by me or by others whom I feel to be competent as a person who is maliciously anti-Semitic, he need not be a complete scoundrel, but he can only be partially, and I don't regard Mr. Luckman, a football player, an expert on Jewish public relations; and the business about the trainers, I think that since you have made me an expert, I will be one.

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At any rate, I repeat what I said before, namely, that I have no personal first-hand knowledge on the basis -- again I repeat, on the basis of what I read here I would have grave suspicion as to the character of the man. I would have grave suspicion but that he was a malicious person with reference to anti-Semitism." (T. 10975-10976).

41. Reputation testimony cannot serve as a convincing substitute for Mr. Richards' actual appearance on the witness

stand to demonstrate, if he could, by his own testimony, the extent of his disposition to be fair and impartial in the programming of his stations. It must, therefore, be found that any and all testimony concerning Mr. Richards' "reputation" for fairness and impartiality cannot in the slightest degree affect the contrary conclusion which must be reached on this question from the evidence of record dealing with Mr. Richards' actual conduct.

42. Applicants' consciousness of guilt with respect to the issues in these proceedings was clearly demonstrated by the tactics of their counsel in the conduct of the proceedings. One incident which shows these tactics, and referred to generally in paragraph 30 of ~~those~~ Conclusions, has been more fully covered in the General Counsel's Motion to Expunge which is being filed with the Examiner at the same time as these Proposed Findings. But this was not the only incident demonstrating these tactics. From the very beginning, applicants' counsel embarked on a course intended to accomplish the following:

(1) To divert the proceedings away from the actual substantive issues involved to issues relating to the motives of particular personalities, including not only members of the Commission, the Commission's staff but also witnesses testifying for the Commission.

(2) To create a public misapprehension of the real issues in the proceedings, by statements and conduct designed to create the false impression that the issues were concerned purely with Mr. Richards' personal, political and other views.

(3) To create by such conduct a completely false impression of a fixed determination by the Commission and the Commission staff to "persecute" Mr. Richards merely because he had views which were anti-Communist and anti-Administration.

(4) To create by sly innuendo a similar false impression that the Commission and its staff had Communist or subversive inclinations.

(5) To create completely false impressions that the Commission's staff had a great amount of information which was favorable to Mr. Richards, but which, by deliberate design, the staff sought in every way possible to suppress.

43. It would require extensive citation to the record to show the extent to which applicants' counsel went to accomplish the foregoing objectives. The matter is one which is very pertinent since the story of their misconduct shows an abuse of the Commission's processes which is without precedent in the annals of the Commission. Their general misconduct is of significance as showing a strong consciousness of guilt. It is of importance that the nature of that conduct be set forth with appropriate comment thereon since it goes also to the serious matter of the preservation of the integrity of the Commission's processes, and the prevention of misuse and abuse of those processes by those who have been accorded the privilege of practicing before the Commission and who seek to continue to exercise that privilege.

44. A campaign of vilification was begun almost before the ink was dry on the appearance filed in these proceedings by the firm of Fulton, Walter, and Halley. The first public statement by Mr. Fulton, given at the opening of the hearing before Examiner Johnson, was a speech delivered in the guise of an "opening statement" which consumed several hours in the reading, and which was not really an opening statement in any sense in which lawyers understand the term, but a publicity release designed for widespread circulation. In this statement, Mr. Fulton completely distorted the issues designated by the Commission, and made a clearly unwarranted attack upon the motives of the Commission,

the staff, and other personalities in respect to the institution of the proceedings against Mr. Richards. This statement, printed and given wide circulation by the applicants in the form of a pamphlet entitled "It May Happen Here" (FCC Exhibit No. 430), became one of a series of similar documents put out by applicants' propaganda machine. This series of documents was all in the same vein of conveying false impressions that the proceedings were only designed to "persecute" Mr. Richards for his patriotic, anti-Communistic, anti-Democratic, pro-Republican personal views. This activity was going on in open and flagrant contempt of the Examiners (both Johnson and Cunningham) who were conscientiously doing everything possible to conduct the proceedings in a judicial manner.

45. A particularly vicious public statement was issued by applicants' counsel immediately upon the close of the proceedings before Examiner Johnson in April of 1950. The record shows how some of applicants' propaganda publications, one of which had the colorful title "Penalty for Patriotism" (FCC Ex. 290), had been fed to the prospective "reputation" witnesses of the applicants prior to their appearance on the stand (T. 10106, 10645, 10678, and 10679), and how in some instances, those witnesses were provided with the questions and answers of previous witnesses with the obvious purpose of conveying to them the line which their answers to the questions of applicants' counsel and Commission

counsel should take (T. 9304, 10101). The record shows how applicants' counsel would enter into stipulations one minute and then, contrary to every recognizable principle of ethics, later turn their back on their own agreement (T. 1182). The record will show how applicants' counsel, knowing that particular evidence was incompetent, immaterial, or irrelevant and clearly inadmissible, would bring it forth with the obvious purpose of creating inferences unfavorable to the Commission, its staff and Commission witnesses (T. 6901). Not the least of these efforts was apparent in the instances in which applicants' counsel sought to introduce clearly incompetent items from allegedly Communistic newspapers (FCC Ex. 120, T. 6843).

46. The record will show, in this same connection, the completely defiant and arrogant refusal of applicants' counsel to abide by the canons of professional ethics even after the pertinent provisions of these canons were pointed out on the record. The question of extra-record comments and argument by counsel upon the merits of the proceedings came up shortly before the termination of the proceedings in Los Angeles in October of 1950 in connection with the intention of applicants' counsel to issue a statement to the press discussing the merits of the case upon the conclusion of the Los Angeles phase of the hearings. At that time, the Examiner stated:

"I indicated once, as I recall, that we should confine this case to the four corners of the courtroom here, and we shouldn't try it outside. If there are statements which counsel desires to make, which he considers pertinent to the proceeding, I think in fairness to me as the Examiner they should be made to me and on the record. I am sure that counsel for the applicant will adhere to that." (T. 14108)

Mr. Fulton's attitude with respect to the question of publicly arguing the merits of his case outside the confines of the record is indicated in the following language:

"But I wish to make it clear that I feel that I have a right in this country to talk to anybody --

"--about this case, and I will do so, and will say to them whatever I consider appropriate, whether Mr. Cottone in turn likes it or not..."
(T. 14110-14111)

On the very next day there was read into the record, at page 14572, the provisions of paragraph 20 of the canons of professional ethics which condemns the practice of publication by lawyers of ex parte statements with respect to the merits of a pending proceeding.

42. In open disregard of the statement made by the Examiner and of the principles in the code of ethics, Mr. Fulton, a few days after the close of the proceedings in Los Angeles, issued an argumentative public statement, very much in the vein of the public statement previously issued at the close of the hearings before Examiner Johnson. In this statement, Mr. Fulton

described his version of the facts in the proceedings and again indulged in attacks upon the credibility of the Commission's witnesses and the integrity of the Commission's staff.

48. It is pertinent to point out in this connection the remarks made by the Examiner on a number of occasions, admonishing applicants' counsel with respect to their tactics.

Thus, on October 10, 1950, the Examiner said to Mr. Fulton:

"There is nothing factual in this record to suggest that, sir. 1/ I pointed that out last July. I admonish counsel that if there is something factual and you would have your witnesses testify to it, the Commission would be glad to receive it." (T. 13046)

49. On October 17, 1950, the day before Mr. Fulton first made his accusations against the Commission staff in regard to "suppression, concealment and destruction of evidence", the Examiner said:

"The Presiding Officer: It may be premature because I originally planned to cover it in my initial decision. But from the very beginning of the hearing, that is, during the time I have been identified with it, there has been a suggestion and assertion here and there that the Communist Party, some Communist sympathizers are in some way identified with the charges that were originally made to the Commission against Mr. Richards and his stations, that they may be in some way identified with this proceeding as such.

1/ The reference was to a series of unsupported conclusions, stated on the stand by a witness for the applicants, to the effect that the proceedings were "Communist-inspired."

"Now, we have a record at the moment of in excess of 14,000 pages. I have been listening very attentively to all of the witnesses. I haven't seen or heard a single solitary fact, not a scintilla of evidence which would suggest to me even remotely that any Communist people or any Communist organization are in any way connected with this proceeding.

"I have reached the point where I am inclined to question the sincerity of the assertion and suggestion. It has absolutely no basis in fact whatever from my personal knowledge of the Commission and the Commissioners and the Commission staff, as well as from the record of the proceeding which we have made thus far of nearly 15,000 pages.

"At one stage of the case I admonished Mr. Burns, who filed a document in which he stated -- I have forgotten his exact words -- that some action taken by counsel for the Commission was designed to cover the fact that the charges in this whole case were Communist inspired, or that Communist sympathizers were behind it. I thought the charge was scandalous and scurrilous and I so stated. I admonished counsel not to repeat it, and he hasn't done so.

"Now, some of the witnesses offered testimony to the effect that Communism in some way is involved here. I struck that testimony, or most of it, and if I didn't strike it then I strike it now and I want the record to show that.

"I am satisfied from the testimony of the witnesses presented by the Commission that the charges made were substantial ones, and I find that there is no foundation for the suggestion of Communism here at all with reference to their testimony or any of the exhibits offered in connection with their testimony.

"Now, why it was done I don't know. I do know that I am not easily deceived and that I haven't been deceived in any way by statements and assertions and the innuendo with reference to the subject.

"On the record those charges that were made, the basis of the Commission's issues were substantial. I think those charges should be met with

"concrete evidence and not with a series of assertions unsupported by fact that Communism or some sinister group is behind this whole proceeding. I am not deceived by that sort of thing, gentlemen. I haven't been. I have waited patiently for something factual that might be presented here in support of the assertions. There have been no facts. None are available. I am satisfied of that.

"So I will have to admonish counsel that henceforth the assertions in this regard must stop. I will not have any more of them on the record. I will interrupt counsel, I will interrupt the witnesses, if they attempt to make them hereafter" (T. 14063-14066).

50. In a particular instance involving the testimony of Thomas C. Latimer, a Commission witness, Mr. Fulton had attacked Latimer by suggesting that he was a Communist or a Communist sympathizer. The witness under cross-examination made a long statement, stating in part:

"Your Honor, am I on trial or is Mr. Richards on trial? I think my record stands. I have no Communist leanings whatsoever. I am not sympathetic with the Communist cause whatsoever, and never have been, and seriously object to any implication by Mr. Fulton that I have had." (T. 2624-2625)

And the Examiner after the witness was excused felt impelled to make this statement to clear the record:

"The Presiding Officer: I would like to make a statement first, if I may, gentlemen, with regard to the previous witness.

"As a matter of fairness and decency, I am aware of nothing in the record which he testified to, either on direct or cross, which would have required that he defend himself as an American. Let that appear on the record." (T. 2635)

51. Were there otherwise any lurking doubt as to the nature of the findings to be made upon the basis of this record, the manner of the conduct of these proceedings by applicants supplies additional basis for a finding of a strong consciousness of guilt by applicants in respect to the true issues in the proceedings.

52. Contrary to the contentions of applicants, there is no issue whatsoever in these proceedings which is designed to judge Mr. Richards' qualifications upon the basis of his personal beliefs or opinions. All of the issues, all of the evidence submitted, and all the foregoing findings relate to conduct of Mr. Richards directed towards the advancement of his personal views -- political, social and economic -- by utilizing for this purpose the radio stations licensed to corporations controlled by him. The Commission has already disposed of these contentions in its Memorandum Opinion and Order released on January 12, 1950 denying the applicants' motion to change issues and for other relief. In that Opinion (5 R.R. 1294) the Commission stated:

"Petitioners' argument that we should delete the hearing issues concerning past operation centers largely on contentions with respect to censorship and freedom of speech; but in our opinion the lengthy argument along these lines is not in point. It seems clear that the question presented by the present petition is not one of Richards' private views and his right to express them, but rather whether Richards, whatever his own views, has and will adequately discharge the responsibility of a licensee. See *KFKB Broadcasting Association v. Federal Radio Commission*, 60 App. D. C. 79, 47 F (2d) 670; *Trinity Methodist Church, South v. Federal Radio Commission*, 61 App. D. C. 311, 62 F.(2d) 850, cert den. 288 U.S. 599; and this Commission's Reports on Editorialization by Broadcast Licensees of June 1, 1949 (Docket 8516; FCC 49-769; 14 F. R. 3055) 1 *Pike & Fischer* 91:201/ particularly paragraph 17."

53. Many arguments have been made by applicants' counsel from time to time that completely confuse the nature of the issues

in respect to the inquiry into Mr. Richards' instructions concerning the handling of news at the stations controlled by him. The Commission has heretofore stated that an important aspect of the licensee's responsibility to be fair may be reflected in the manner in which its newscasting operations are conducted. Thus, in its report, In the Matter of Editorializing by Broadcast Licensees, (Docket 8516) (Vol. I - R.R., 91:201), the Commission after pointing out that a licensee was not precluded from expression of his own views over the facilities of his station, stated:

"It must be recognized, however, that the licensee's opportunity to express his own views as part of a general presentation of varying opinions on particular controversial issues, does not justify or empower any licensee to exercise his authority over the selection of program material to distort or suppress the basic factual information upon which any truly fair and free discussion of public issues must necessarily depend. The basis for any fair consideration of public issues, and particularly those of a controversial nature, is the presentation of news and information concerning the basic facts of the controversy in as complete and impartial a manner as possible. A licensee would be abusing his position as public trustee of these important means of mass communication were he to withhold from expression over his facilities relevant news or facts concerning a controversy or to slant or distort the presentation of such news. No discussion of the issues involved in any controversy can be fair or in the public interest where such discussion must take place in a climate of false or misleading information concerning the basic facts of the controversy."

(91:208-91:209)

In the separate views of Commissioner Jones on this matter it was stated:

"Thus, it is clearly within the scope of the Commission's authority to refuse to grant a renewal of license to one whose operation is extensively conducted in his personal interest rather than the public interest. Cf. KFKB Broadcasting Association vs. Federal Radio Commission, 47 F. 2d 670. " (91:217)

Commissioner Jones further stated:

" * * * I do believe that the Commission has the power to require segregation of objective news from comment and editorialization by commentators and licensees. If fairness to the public is to be the test, then certainly the public is entitled to know what is news and what is opinion from both licensees and commentators." (91:222)

54. The primary question presented in these proceedings concerns the basic propensity, inclination and disposition of the controlling stockholder of the corporate licensees of stations KMPC, WJR and WGAR to be unfair, biased and partisan in respect to the programming of these stations as shown by his past conduct (In Re Applications of WBNX Broadcasting Co., Inc. et al 4 R.R. 242). As such the issue is one going to the qualifications of a licensee in respect to perhaps the most important element of the public interest involved in connection with the operation of radio broadcasting stations. It is the basic responsibility of a broadcaster to contribute to the development of an informed public opinion in his community by giving to his listening audience

information and discussion concerning the important public issues of the day in such a manner that, in true democratic tradition, the opinions of the listening audience may be formed by weighing the pros and cons of all shades of opinion made available For a broadcaster to treat the facilities licensed to him as a tool for the exploitation of his personal, private, political, social and economic beliefs in a manner which denies or suppresses expression or opportunity for expression of contrary points of view, or in a manner which creates difficult obstacles to the equal presentation of such contrary points of view over that broadcaster's facilities, would in fact constitute the exercise by the broadcaster of a power of "thought control" through the utilization of a facility entrusted to his use by the public. It is of vital concern to the Commission that broadcast privileges not be utilized in any such manner, regardless of the nature of the point of view which is exploited by the broadcaster or which is suppressed or denied expression by him.

55. It is provided in the Communications Act (Sec. 326) that there shall be no censorship by the government of the communications transmitted over a radio station. The language of this provision is plain. Simply put, it means that the Commission may not restrain any station in their intention to broadcast

or not to broadcast any particular material (subject to such exceptions as pertain to lotteries, obscene and profane languages and broadcasts by candidates for public offices). But the Act provides just as plainly that the Commission may not grant a license to any person unless that license will be used in the public interest (Sec. 309). The same requirement is applied to a broadcaster who seeks renewal of his license (Sec. 307(d)).

In the latter case, the test of whether the broadcaster who seeks a renewal of his license may be expected in the future to serve the public interest, is his past conduct and the record of his past operations. This has been aptly put by the courts in

the language of the scriptures: "By their fruits ye shall know them."^{1/}

By the provisions of Sec. 326 Congress left it to the judgment of the broadcaster licensed by the Commission to determine what programming should or should not be carried in serving the interests of the public. This is a judgment so important and so far reaching in its possible implications that Congress made it perfectly clear that only a broadcaster with the requisite qualifications for operation in the public interest can be entrusted with so important a responsibility. Congress, therefore, provided that the Commission must inquire into the character of proposed licensees in order that it should be entirely sure that broadcast operations will not

^{1/} KFKB Broadcasting Association vs. Federal Radio Commission, 47 F. 2d, 670, 672.

be entrusted to persons with little or no sense of responsibility to serve the needs and interests of the entire public. It is a cardinal principle of the public interest that it is the right of the public to receive, by radio, all shades of opinion, as well as undistorted facts on the issues of the day. It is, therefore, clear that any broadcaster who shows by past conduct a disposition deliberately to "stack" the programming on his station in such a way that the public is given a steady fare of the side of the story to which he is sympathetic or partial, or in such a way that the broadcaster's side is brilliantly colored while the other side is deliberately discolored, is unqualified to hold a broadcast license or to be in a position to control broadcast operations. Such a broadcaster is no less guilty of deception of the public than one who disseminates untruths. And it is further clear that a broadcaster who has shown by his past conduct a disposition to project personal prejudices and animosities into the programming of his station with the deliberate design of casting discredit on particular races, is one who must be considered incapable of fairness and consequently, incompetent properly to serve the interests of the public (Cf. In re Applications of WENX, Inc. et al., 4 R. R. 242).

56. It is just such conduct that Mr. G. A. Richards, engaged in over a period of years, utilizing for that purpose his position as controlling stockholder and chief official of the corporate applicants for renewal of the licenses of Stations KMPC, WJR and WGAR. It must, therefore, be concluded that he does not possess the requisite qualifications of a broadcast licensee; and it follows that the corporate applicants are similarly disqualified from being licensed to own and operate broadcast stations. It must be further concluded from all of the findings herein that the operations of applicant stations have not served the public interest, convenience and necessity under the dominating influence of Mr. Richards and under his policies for partisan use of the facilities of the stations. It must further be separately and independently concluded in the light of the foregoing findings relating to the deliberate misrepresentations made by Mr. Richards and the applicants to the Commission in respect of matters covered by the issues in these proceedings, that the Commission cannot rely either on Mr. Richards or the applicants to be candid and honest in their future dealings with the Commission, and for that reason they are disqualified from being licensed to own and operate broadcast stations.

57. Upon consideration of all the foregoing findings and conclusions, and all the evidence of record, it must be found that the public interest, convenience or necessity will not be served by a grant of the applications for renewal of license of KMPC, The Station of the Stars, Inc., WJR, The Goodwill Station, Inc. and WGAR Broadcasting Company. Accordingly, each of such applications must be denied.

Respectfully submitted,

Benedict P. Cottone
General Counsel
Federal Communications Commission

Frederick W. Ford
Counsel

Thomas H. Donahue
Counsel

AFFIDAVIT OF SERVICE

CITY OF WASHINGTON)
)
DISTRICT OF COLUMBIA) ss:

FLORENCE I. STRETCH, being first duly sworn, upon her oath deposes and says that she had this 14th day of May, 1951, sent by regular United States mail, U.S. Government Frank, a copy of the foregoing Proposed Findings of Fact and Conclusions of Law of the General Counsel of the Federal Communications Commission to the following:

Fulton, Walter and Halley, Esquires
30 Rockefeller Plaza
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Kirkland, Fleming, Green, Martin & Ellis, Esquires
National Press Building
Washington, D. C.

Dow, Lohnes & Albertson, Esquires
Munsey Building
Washington, D. C.

Wheeler & Wheeler
Southern Building
Washington, D. C.

FLORENCE I. STRETCH

Subscribed and sworn to before me
this 14th day of May, 1951.

FOREST L. McCLENNING
NOTARY PUBLIC, D. C.

My Commission Expires January 15, 1953



